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ANNUAL REPORT  
OF THE  
REGISTRY DEPARTMENT,

FOR THE  
YEAR 1892. — 99

[The first report of this department was for the year 1849. No report was issued for the years 1860 and 1861. The title-page of the report for 1882 is wrongly printed as Document 89 of 1882, instead of 1883.]



BOSTON:  
ROCKWELL AND CHURCHILL, CITY PRINTERS.  
1893.







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1893.







BOSTON, May 24, 1893.

HON. NATHAN MATTHEWS, JR.,

*Mayor of the City of Boston :*

SIR : In compliance with the ordinance, beg leave to report that according to our books there were recorded in the year 1892

15,154 births (including 104 children of parents usually living out of this city).

6,516 intentions of marriage.

5,670 marriages solemnized in the city.

605      “      of citizens married elsewhere in the State.

75      “      “      “      “      out of the State.

11,241 deaths.

644 still-born children. See Appendix E.

For obvious reasons the account of marriages is incomplete, as returns will continue to be made for months ; but the present figure is probably within ninety-five per cent. of the whole.

The office of City Registrar was established by ordinance passed June 25, 1849, and amended September 9, 1850, in accordance with the powers given by Chap. 202 of the Acts of 1849, by which “any city or town containing more than ten thousand inhabitants may choose a person other than the clerk to be registrar.” Boston alone has, so far, availed of this right. The first Registrar was Artemas Simonds, who was appointed in 1849, and served for five years. In 1854, Nicholas A. Apollonio succeeded him and held the office till his death, October 30, 1891. On October 31, 1891, the head clerk in the department, Franklin D. Rideout, was appointed to act until the vacancy was filled.

In 1892, the Department of Ancient Records was consolidated with the Registry Department, and the undersigned, the Chairman of the Record Commissioners, was appointed and confirmed as city registrar April 4. As legislation was then pending, he did not qualify until July 1, and on July 18, having been again nominated and confirmed, became city registrar under Chap. 314 of Acts of 1892. The ordi-



nance concerning the department was approved July 12, 1892.

By the consolidation one copyist and one office-boy were added to the force of this department. Under the new law two assistant-registrars were appointed, one being the former chief-clerk, Mr. Rideout, and the other being Mr. John C. Short. A messenger was appointed, and the office of supervisor of returns created. One copyist was also added by transfer from another department. This increase in the force was caused by the well-founded belief that the business of the office had fallen in arrears, and that even the current business could not be promptly transacted. The office had been for years conducted in a manner not in accordance with present ideas; although it is proper to state at the outset that Mr. Apollonio was a careful and industrious official. His long tenure of office, thirty-seven years, proves the public estimation of him. Unfortunately, although he often urged it, he failed to impress the City Council with the absolute necessity of larger expenditures in order to secure better results; and every detail shows the pressure of an unnecessary economy. Two instances will suffice: classified indexes were introduced only in 1882, and no system of comparing entries or records was employed. Indexes were prepared from the original documents instead of from the books, and clerical errors were left for the examiner to discover. In this office are recorded the statistics annually of over 15,000 births, 11,000 deaths, 6,300 marriages, and as many marriage intentions. Duplicates of the births, deaths, and marriages have to be furnished to the secretary of the Commonwealth. Indexes have to be prepared, and the demand is already urgent for consolidated indexes covering several years. We have also to furnish information to all applicants as to matters on record in the office, and in many cases to give copies thereof. For years no suitable offices were furnished for the department, and the safety of the records was greatly endangered. The present location in the old Court House gives ample space, and we have now a suitable brick vault for the storage of original documents.

To proceed to details:

#### BIRTHS.

To my surprise, I found the system of collecting births in this city in a most unsatisfactory condition. The law, at least since 1860 (Gen. Stat., Chap. 21), has required all parents and householders to report births, and has also re-



quired city and town clerks to "receive or obtain, and record and index" all births, marriages, and deaths. From the date of the establishment of this office in 1849, the births have been collected solely by means of an annual house-to-house visitation in January. Mr. Simonds in his first report, 1850, stated that an old law had always required parents to give information of births. From the detailed report given in Appendix, it will be noted that no births are on record for the period from 1800 to 1849, except some 3,600 recorded "scores of years after the births occurred." (Simonds' report, 1850.) From all inquiries made, it seems that there was a great neglect in recording vital statistics everywhere in the Commonwealth during the seventy-five years following the Revolution. Boston suffered the worst, as all records, if kept, are now lost. But the fact that the office of town and city clerk has been held by so few persons prevents any probability of the accidental removal of records. Ezekiel Goldthwait was town clerk from 1741 to 1761; William Cooper from 1761 to 1809; Thomas Clark from 1809 to 1822. Then Samuel F. McCleary held as city clerk from 1822 to 1852; and his son and successor is still alive. I cannot see any ground herein to hope for the discovery of the missing documents, and can only surmise that the births during that period were never recorded. Boston in 1811 had a population of 34,000, and in 1823 had 52,000 inhabitants. These figures show the impossibility even then of obtaining any full record of births by depending upon the voluntary reports of parents.

It is not strange that in 1849 Mr. Simonds decided to make an annual house-to-house collection, nor that he employed for the purpose Mr. George Adams, the publisher of the Boston Directory. But a system which sufficed for a city of 138,000 inhabitants may be inefficient now. One obvious objection to the past system is that the registrar has none of the original documents in regard to the births. The contractor has heretofore brought in the returns copied upon printed forms; and these sheets, after being copied into books, have been forwarded to the secretary of the Commonwealth. Thus for fifty years we have neither the original note-books of these unknown collectors, nor even their fair copies. Moreover, for several years, Boston has lacked one important source of information which was utilized everywhere else in the Commonwealth. By Chap. 33 of Acts of 1880, physicians everywhere *except in Boston* were compelled to make returns of all births at which they were



present. By Chap. 288 of Acts of 1889, the exception was removed, and Boston came under the general law. No attempt, however, was made to enforce it, until the present Registrar issued a circular in August, 1892. The response has been very satisfactory. Although of necessity the earlier months were not covered by this call, there have been received from physicians the records of 7,467 births occurring in 1892, and at least 6,000 were for the last six months in the year.

I felt constrained to make a contract with Messrs. Sampson, Murdock & Co. to take the births for 1892 as usual, with the important change that the street books were to be in a form prescribed by me; and, as fast as filled out, these books have been returned to this office. The signatures of the parents of the children have been obtained wherever possible, and we thus secure the best authority for the facts. After a thorough comparison of these census returns with the physicians' returns, we can see how many births escape the annual collector. Though the results will doubtless justify the expense, the new system has caused an unavoidable delay in completing the record, and in preparing this annual report. The street books were all received by March 1, but about one-third of the number of names had been returned by physicians. It was necessary to compare these entries so as to avoid duplicates, and with a simple index to use it was impossible to employ more than two clerks at a time. Next year the work will be easier and require much less time, as it is proposed to enter the physicians' returns as received, and to add to the general index a supplementary index arranged by wards. As the annual collection is necessarily by localities, it will be possible to have the entries collated by as many clerks as there are wards, and in a very brief time.

The comparison of the two returns (the physicians' and collectors') often reveals great inconsistencies. Frequently there is a discrepancy of a day in regard to the exact date of birth, and here the physician's report, made promptly, would seem to be the more trustworthy. Differences as to names of parents or children are probably reported most correctly by the parents. It is strange that no statute in this Commonwealth directs the method of giving a child its name, though Pub. Stat., Chap. 148, § 12, forbid any change except as therein provided. An attempt to obtain an act at the present session of the Legislature failed; but it is inevitable that it will be renewed in the future. The evils of the present state of affairs will increase with the multiplication of the changes in



surnames, and even Christian names, made by our adopted citizens in their desire to turn Russian, Polish, or Italian names into English substitutes.

### MARRIAGES.

The returns for 1892 have been made with reasonable promptitude. A certain number of the marriage licenses are never returned. At least seven per cent., or over 500 a year, in some years remain unreturned, and though in some cases the parties have not married, still at least 300 marriages went unrecorded. For 1892, owing to the efforts made to compel returns, it appears that 420 certificates were not returned prior to April 1, 1893.

It is not easy to suggest a remedy under our present very lax statutes. After the license is issued, any minister of the gospel, duly ordained, etc., and any justice of the peace in the Commonwealth, may marry the parties. We have no means of tracing the fact, especially if the applicants have changed their residence. The law of 1892, Chap. 300, which calls for the return of the original certificates, has proved a wise one. (*See Appendix A.*) In this office we have received a number of old certificates, from one to six years old, which had remained overlooked in clergymen's desks. Clerical errors of all kinds are frequent, and I have kept an inspector fully employed in returning these certificates for correction. I see no remedy for this, and the expense must be considered as a permanent charge on this office. The City Clerks' Club of this Commonwealth considered the defects of the present laws, and submitted the draft of a bill to the Legislature of 1893. A copy of it, in the form in which it passed the Senate, will be found in Appendix C.

It seemed that in cities, and especially in Boston, where there are so many clergymen, it is not desirable to continue the power of all justices of the peace to marry applicants. There are now in Boston about 2,100 justices. By our records it appears that in 1892, out of 5,661 marriages, 529, or about nine per cent., were solemnized by justices. Deduct 156 of these, which were solemnized by three persons connected with this office, and there remain 373, or  $6\frac{2}{3}$  per cent., at which other justices acted.

As the bill failed in the House, after passing the Senate, it is useless to say more. Some revision of the laws must soon take place, as at present there are so many loopholes in the statutes that the intent is easily evaded.



Practically any couple, whether of the legal ages or not, can obtain a license and have their marriage solemnized. The presumed rights of parents and guardians are practically ignored, merely because the laws which sufficed for small communities of homogeneous population are applied to cities whose inhabitants are ignorant of the customs and laws of the State. Boston has of course the greatest number of difficult cases, and this department has been obliged to fall back upon the decisions of the corporation counsel in many instances. While this report was in the press, the Legislature was constrained to pass an act, on the last day of the session, to afford necessary protection to our Israelitish citizens. It is chap. 461 of 1893, and is printed in Appendix B.

The subject of marriages between Chinese males and American females demands special consideration, as Boston has had for years almost all the cases occurring in this State.

By the full returns in Appendix D it seems that there were

1 marriage in	.	.	.	.	.	1885
0 " "	.	.	.	.	.	1886
4 marriages "	.	.	.	.	.	1887
2 " "	.	.	.	.	.	1888
8 " "	.	.	.	.	.	1889
7 " "	.	.	.	.	.	1890
5 " "	.	.	.	.	.	1891
10 " "	.	(in eight months)				1891

When the present Registrar took charge there seemed to be a great tendency towards such marriages. When the applicants, however, were obliged to conform strictly to the requirements of the law, a decided check was given. Two or three cases of misrepresentation were detected, and the American parties did not reappear.

The Registrar cannot express too strongly his opinion that such marriages ought not to be allowed under the same laws as govern our own citizens. In the first place, it is a well-known fact that an oath administered according to our forms has no binding force on a Chinese man. Secondly, as few applicants understand English, we are entirely at the mercy of any one who assumes to act as interpreter. No one who has seen the farce of an application for a marriage license made by a Chinese man can believe that it is of any efficacy. Lastly, the Chinese man does not proceed to get married according to rites which he regards as valid.



In 1890 of 10 marriages 5 were by justices.

“ 1891 “	5	“	4	“	“
“ 1892 “	9	“	7	“	“

That is, out of the last 22 marriages only 4 were solemnized by clergymen. What sanctity can be given to a marriage where the man goes into an office, signs a paper in an unknown tongue, repeats the words of a meaningless oath, pays a fee, and then stands for a moment or two in front of any person who holds a commission of justice of the peace, and, on paying a further fee, is told that he is now a legal husband?

### MARRIAGE INTENTIONS.

As to notices of Marriage Intentions, this city was the first to adopt the plan of requiring a written notice, signed by one of the parties, and made upon a suitable form. Since July, 1892, these applications have been preserved, and since January 1, 1893, they have been bound. It is needless to dwell upon the value of such records. Probably the time will come when the propriety and necessity of requiring the attendance of both parties to the notice will be recognized. Many distressing cases have occurred in this office where false representations have been made.

The Index of Marriage Intentions and Marriages for 1892 will be printed. It is believed that the cost as compared with a written index will not be much increased, while the gain in space and in convenience of use will be great. The edition will be ready by July 1, and hereafter annually at an earlier date.

### DEATHS.

Prior to 1892, the city registrar's annual reports contained elaborate tables of statistics, but their omission in 1892 has not caused any criticism or inquiry. It seems fair to conclude that the time, labor, and expense expended were without adequate return, and none have been calculated for this report. In regard to deaths, all desired information is supplied by the reports of the board of health, and it is clearly useless to make similar computations in this office. As the statutes now stand, all death returns, after record at the health office, are deposited here. On examining the books, it was found that the death returns from 1810 to 1850, with the causes of deaths, had been preserved in a volume.



As these have never been reprinted collectively, I propose to issue them in a pamphlet, now in the press. As these years cover several periods of extreme mortality from fevers, cholera, and lung diseases, I am informed that the publication will be useful.

### CLASSIFIED INDEXES.

In my preliminary report to his honor the mayor, under date of October 12, 1892, I gave an estimate of the work to be done in preparing classified indexes of the births, marriages, and deaths from 1849 through 1881. Having received a special appropriation for the work in the annual estimates, I have commenced upon it. These indexes are estimated to cover 240,000 births, 200,000 marriages, and 185,000 deaths. It is proposed to make two series in each class, say from 1849 through 1869, and from 1870 through 1881; each index requiring three large volumes for the alphabet.

On all accounts, for economy and speed, it seemed best to have this work done by contract. The deaths, and about two-thirds of the births, had been printed on cards, by typewriters, prior to June 1. It is easy to foresee the conclusion of that part of the work. The verification of all the cards and their classification will require more time, but it has been commenced and will be pushed forward. The final copying into suitable books will be undertaken as soon as practicable, and is the more difficult owing to the lack of suitable copyists who write a "record hand." I see no reason to doubt that the work can be completed in 1894.

### BINDING BOOKS.

It has been necessary to do a great deal of binding. The older volumes of Boston records, and those received in consequence of annexations of other cities and towns, required new bindings. I have employed Mr. F. W. R. Emery, of Taunton, on account of his large experience in such work, and his use of a special process for overlaying old documents with a prepared silk. For obvious reasons, this work has been done in this office, so that the books have not been exposed to the risk of removal. Moreover, many of the volumes since 1849 have needed to be rebound, so that the record for each year should be complete by itself. All of these expenses this year are a special charge, not requiring to be incurred again for many years.



ANCIENT RECORDS.

The twenty-third report of the Record Commissioners, being Selectmen's records 1769-1775, was issued in February. The next volume is in press, as also a volume of Boston births, deaths, and marriages from 1700 to 1800, ordered by vote of the City Council.

The department was established by ordinance, July 1875. By chapter eleven of Ordinances of 1892, approved July 12, 1892, it was consolidated with the Registry Department. The Financial Statement for 1892 is as follows :

ANCIENT RECORDS DEPARTMENT.

Appropriation, 1892		\$5,000 00
Expenditures to July 18, 1892 :		
W. H. Whitmore, salary . . .	\$1,444 44	
Clerk-hire and sundries . . .	593 06	
Transferred to Registry Dept. .	2,962 50	
	— — — — —	\$5,000 00



## FINANCIAL STATEMENT.

Appropriation, February 1, 1892 . . .	\$16,292 00
July transfer, bal. Ancient Records Dept. . .	2,962 50
January 31, transfer to balance * . . .	814 16
	<hr/>
	\$20,068 66

## INCOME.

Rec'd for marriage licenses, viz. :  
 1892, Nos. 460 to 1,516 inclusive, less  
     No. 3,170 not paid for=6,056 certificates.  
 1893, Nos. 1 to 535= 535      “

Total certificates . . .	6,591 at 50c. . .	3,295 50
		<hr/>
		\$23,364 16

## EXPENDITURES.

As per City Auditor's Report :

Salaries . . . . .	\$13,730 87
Collecting births of 1891 . . .	3,612 00
Salary of N. A. Apollonio . . .	1,278 39
Sundries . . . . .	1,447 40
	<hr/>
	\$20,068 66
Paid City Collector . . . . .	2,115 75
Paid physicians, reporting births October, November, Decem- ber, and January . . . . .	783 75
Cash on hand February 1, 1893.	396 00
	<hr/>
	\$23,364 16

In conclusion, I beg leave to represent that the annual report of this department cannot be made earlier than May 1, under the most favorable conditions, if the requirements of the ordinances are met.

Respectfully submitted,

WILLIAM H. WHITMORE,  
*City Registrar.*

OLD COURT HOUSE, June 1, 1893.

\* This transfer was rendered necessary by the special payment of a salary to the widow of the former registrar.



## APPENDIX A.

### CHAPTER 300 OF ACTS OF 1892.

#### AN ACT RELATING TO THE RECORD AND RETURN OF MARRIAGES.

*Be it enacted, etc., as follows:*

Section twenty-four of chapter one hundred and forty-five of the Public Statutes is hereby amended by inserting in the third line of said section, after the word “make”, the words:— and keep,— by striking out in the fifth line, the words “by law”, by inserting after the word “recorded”, in said fifth line, the words:— by section one of chapter thirty-two of the Public Statutes,— by striking out the word “each”, in the sixth line of said section, and inserting in place thereof the word:— the,— by striking out all after the word “month”, in said sixth line, to and including the word “solemnized”, in the tenth line, and inserting in place thereof the following words:— following each marriage solemnized by him, return each certificate issued under the provisions of sections sixteen and seventeen of this chapter, to the clerk or registrar who issued the same; and if the marriage was solemnized in a city or town other than the place or places in which the parties to the marriage resided,— by striking out, in the eleventh line, the words “of the record of such marriage”, and inserting in place thereof the following words:— of the certificate, or of either certificate in case two were issued,— by striking out all after the word “town”, in the twelfth line, to and including the word “places”, in the fourteenth line, and inserting in place thereof the following words:— in which the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the place and date of marriage, and shall be attested by the signature of the person who solemnized the same, with his official station and residence added thereto,— by striking out the word “marriages”, in said fourteenth line, and inserting in place thereof the words:— certificates or copies,— by inserting after the word “registrar”, in the fifteenth line, the words:— receiving the same,— and by inserting after the word “the”, in said fifteenth line, the words:— record and,— so as to read as follows:— *Section 24.* Every justice of the peace, minister, and clerk or keeper of the records of a meeting wherein marriages among Friends or Quakers are solemnized shall make and keep a record of each marriage solemnized before him, or in such meeting, and of all facts relating to the marriage which are required to be recorded by section one of chapter thirty-two of the Public Statutes. He shall also, between the first and tenth days of the month fol-



lowing each marriage solemnized by him, return each certificate issued under the provisions of sections sixteen and seventeen of this chapter, to the clerk or registrar who issued the same; and if the marriage was solemnized in a city or town other than the place or places in which the parties to the marriage resided, return a copy of the certificate, or of either certificate in case two were issued, to the clerk or registrar of the city or town in which the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the place and date of marriage, and shall be attested by the signature of the person who solemnized the same, with his official station and residence added thereto. All certificates or copies so returned shall be recorded by the clerk or registrar receiving the same, and every person neglecting to make the record and returns required by this section shall forfeit for each neglect not less than twenty nor more than one hundred dollars. [*Approved May 17, 1892.*]

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## APPENDIX B.

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### CHAPTER 461 OF ACTS OF 1893.

#### AN ACT RELATIVE TO SOLEMNIZING MARRIAGES.

*Be it enacted, etc.:*

SECTION 1. Any rabbi of the Israelitish faith may solemnize a marriage under the same rules, restrictions, obligations, and penalties as are imposed by law upon ministers of the gospel in this Commonwealth.

Such rabbi or Israelitish minister must be one duly licensed to act by a congregation of said faith established in this Commonwealth.

SECT. 2. The provisions of section twenty-seven of chapter one hundred and forty-five of the Public Statutes shall apply to such a marriage.

SECT. 3. This act shall take effect upon its passage.

[*Approved June 9, 1893.*]



## APPENDIX C.

## SENATE BILL NO. 366, REPORTED MAY 11, 1893.

SECTION 1. Persons intending to be married in this Commonwealth shall first give a written notice of their intention to the clerk or registrar of the city or town in which they severally reside, in the manner hereinafter prescribed. The notice, which in cities shall be made upon a blank furnished by said clerk or registrar, shall contain all the facts relating to the marriage required by law to be recorded by the clerk or registrar, excepting those relating to the name of the person by whom the marriage ceremony is to be performed, and the date and place of such marriage. It shall be subscribed and presented to the clerk or registrar by one of the parties, or his or her parent, guardian or agent. If either party be a non-resident, the notice given by the other shall be sufficient. If both be non-residents, the notice shall be given in the city or town where the marriage is to be performed. The clerk or registrar may in all cases require the attendance of both parties to the notice before accepting the same, if he has reason to doubt the truth of the statements affecting the absent party. The applicant may be required to make oath as to the truth of all the statements whereof he or she could have knowledge.

SECT. 2. The clerk or registrar may dispense with the statement of any of the facts required in such notices which do not affect the identity or age of the parties, if he is satisfied that they cannot be obtained with reasonable exertion. In cities, he shall not be required to receive such notices at any place except his office, nor out of usual hours, nor on Sundays or public holidays.

SECT. 3. The clerk or registrar shall not receive any such notice for or in regard to any male under the age of twenty-one years, nor any female under the age of eighteen years, except upon the consent in writing of the parent or legal guardian of such person, if he have either residing in this Commonwealth competent to act. The consent of the mother shall be sufficient if the father neglects or refuses to act. Minors not having a parent or guardian in this Commonwealth may, on making affidavit to that effect, and otherwise complying with the law, receive a license at the discretion of the clerk or registrar. Whenever, in order to the marriage of a minor, it is necessary to give notice in two towns or cities, the clerk or registrar who first takes the consent of the parent or guardian shall take it in duplicate, retaining one copy and delivering the other duly attested by him to the party obtaining the certificate, to be given to the clerk or registrar issuing the second certificate.

SECT. 4. The clerk or registrar on receipt of notice as above described, and the payment of the legal fee, shall issue to the



applicant a marriage license, being a certificate under his hand, specifying the date of the notice and setting forth all the facts therein contained. If the person who is to perform the marriage ceremony finds that any mistake has been made in the name or age of either party, it shall be his duty to decline to proceed until a new certificate is issued. The clerk or registrar may decline to issue a certificate to any parties in case he has reasonable grounds to believe that any of the statements contained in the notice are fraudulent; but he may accept depositions under oath as sufficient proof.

SECT. 5. After a marriage has been performed, the person officiating shall, on or before the tenth day of the following month, return the certificate or certificates to the clerk or registrar issuing the same. In case neither of the parties resides in the town or city where the marriage was solemnized, the person officiating shall in like manner return also to the clerk or registrar of such town or city a certified copy of the entire contents of the certificate used, or of either of them if two were required. He shall write on each certificate or copy so returned a statement giving the place and date of marriage, which shall be attested by his signature, with his official position and residence (giving street and number) added thereto.

SECT. 6. When any person heretofore residing in this Commonwealth shall be married elsewhere, he shall, within ten days after his return hither, file with the clerk or registrar of the city or town where he had resided a certificate under oath giving all the facts required by the notice mentioned in Sect. one, and also the date and place of the marriage, and the name of the person performing the ceremony. The clerk or registrar shall receive and preserve said certificate, and cause the same to be entered on a suitable book.

SECT. 7. No marriage shall be solemnized in this Commonwealth unless the party performing the ceremony has received the certificate or certificates issued by the clerk or registrar of a city or town, provided for in Sect. four. The only persons who may join parties in marriage shall be ministers of the gospel ordained or licensed to preach according to the usage of his denomination and continuing so to act, and having a legal residence within this Commonwealth; town and city clerks, city registrars, assistant city clerks and assistant city registrars, and justices of the peace. Such clergymen may solemnize marriages throughout this Commonwealth; the other named parties may officiate only in the city or town in which they reside. Such persons shall keep a record of all marriages solemnized before them, containing all the facts set forth in the certificate or license mentioned in Sect. four, and also the date and place of such marriage. Such record shall be kept in books, which shall be annually, in the month of January, brought by such minister or justice to the office of the clerk or registrar of the city or town in which he resides, for examination. Such record kept by a clergyman shall be by him deposited with the church of which he had charge, or with which he was connected, whenever his charge is terminated. The record kept by every justice of the peace shall be deposited at his death,



or the termination of his commission, in the office of the Clerk of the Superior Court, in the county in which he resided, and shall be there preserved as a public record. Town and city clerks, city registrars, and the assistant city clerks and registrars, need not keep a separate record, but shall forthwith enter on the town or city records all marriages solemnized by them.

SECT. 8. Marriages among the people called Friends or Quakers shall be solemnized according to their custom, but the certificate thereof shall be signed and returned by the clerk or keeper of the records of the meeting to which either of the persons married belonged, and he shall also keep the record prescribed in Sect. seven.

SECT. 9. Whoever gives the notice required by section one without the express consent of both the parties to such intended marriage, shall be punished by fine or imprisonment or both, the penalty not to exceed five hundred dollars, or one year's imprisonment in the jail. He shall also be liable in an action for damages to the person whose name was thus wrongfully used. Any justice of the superior court may order that a notice of intention of marriage, recorded without the consent of the parties, and not followed by marriage between them, shall be cancelled and removed from the records of the town or city.

SECT. 10. Except as herein otherwise provided any person violating the provisions of this act shall forfeit a sum not exceeding two hundred dollars for each offence; and if a false statement has been made under oath, he shall also be liable to imprisonment in the jail, not exceeding one year. All oaths administered under the terms of this act may be taken before the respective clerks, assistant clerks, registrars, and assistant registrars; or any assistant to a city or town clerk, by him deputed so to act, or by any other officer authorized by law to administer oaths.



APPENDIX D.

Chinese Marriages Registered in the City of Boston

No.	Date of Marriage.	Names and Surnames of Groom and Bride.	Residence of both at time of Marriage.	Age in Years.	Occupation of Groom.
2012	July 22,	Henry D. Means (Mongolian) . .	Millbridge, Me..	20	Student . . . .
2845	Oct. 15,	Catharine C. Wilson (adopted) .	Charleston, S.C.,	18	. . . . .
		Moy Joung . . . . .	Boston . . . . .	30	Merchant . . . .
		Lottie W. Church . . . . .	Boston . . . . .	24	. . . . .

1887.

106	Jan. 14,	Chung Goan . . . . .	Boston . . . . .	28	Laundryman .
2493	Aug. 24,	Flora B. Smith . . . . .	Boston . . . . .	18	. . . . .
		Choo Ah Chin . . . . .	Boston . . . . .	35	Laundryman .
		Mary Gannon . . . . .	Boston . . . . .	19	None . . . . .
3432	Oct. 22,	Moy Dan Gune . . . . .	Boston . . . . .	28	Bookkeeper . .
3563	Oct. 31,	Elizabeth F. Chase . . . . .	Boston . . . . .	21	Waitress . . . .
		Chin U. Quon . . . . .	Boston . . . . .	26	Merchant . . . .
		Blanche M. Howard . . . . .	Boston . . . . .	23	Actress . . . .

1888.

701	Mar. 1,	Wong Linn . . . . .	Boston . . . . .	28	Merchant . . .
1811	June 5,	Nellie McGinnis . . . . .	New York, N.Y.,	22	Seamstress . . .
		Fred Sam (Japanese) . . . . .	Boston . . . . .	38	Steward . . . .
		Emma T. Weeden . . . . .	Boston . . . . .	32	Cook . . . . .
2236	July 12,	Chin Que . . . . .	Boston . . . . .	27	Bookkeeper . .
		Mary McCarron . . . . .	Providence, R.I.,	23	Waitress . . . .

1889.

1133	Mar. 28,	Leo Foon . . . . .	Boston . . . . .	23	Laundryman .
1211	April 24,	Jennie McDevitt . . . . .	Boston . . . . .	22	Waitress . . . .
		Charlie June . . . . .	Boston . . . . .	22	Bookkeeper . .
		Emma Roberts . . . . .	Boston . . . . .	26	Dressmaker . .
1760	May 13,	John I. Goon . . . . .	Boston . . . . .	24	Cook . . . . .
1922	May 29,	Mary A. Reno . . . . .	Boston . . . . .	27	Cook . . . . .
		Ah Lee . . . . .	Boston . . . . .	31	Laundryman .
		Annie Bassett . . . . .	Boston . . . . .	19	None . . . . .
1923	May 29,	Moy Lung . . . . .	Boston . . . . .	28	Laundryman .
3457	Sept. 23,	Lena Perry . . . . .	Boston . . . . .	19	Domestic . . . .
		Chin Coon . . . . .	Boston . . . . .	30	Laundryman .
		Miriam E. Regon . . . . .	Boston . . . . .	23	Waitress . . . .
3958	Oct. 25,	Moy Chung Lee . . . . .	Boston . . . . .	31	None . . . . .
3968	Oct. 14,	Lizzie Fitch . . . . .	Boston . . . . .	20	None . . . . .
		Chin Toy . . . . .	Boston . . . . .	32	Laundryman .
		Hazel McLean . . . . .	Boston . . . . .	21	Domestic . . . .



for the Year Eighteen Hundred and Eighty-five.\*

Place of Birth of Each.	Names of Parents.		1st, 2d, 3d, or 4th Marriage.	Name and Official Station of Person by whom Married.	Date of Registry.
Japan . . . . .	Oquemon S. .	Okatz . . . . .	First .	Rev. W.W. Downs,	
Charleston, S.C. .	James E. . . .	Frances Smith .	First .	Boston . . . . .	July 22.
China . . . . .	Geng . . . . .	Lum . . . . .	First .	Rev. L. G. Walden,	
Chelsea . . . . .	Eben . . . . .	Marie . . . . .	First .	Boston . . . . .	Oct. 16.

\* None in 1886.

1887.

China . . . . .	Ching . . . . .	Unknown . . . .	First .	Edward J. Jones,	
Boston . . . . .	William . . . .	Sarah . . . . .	First .	Esq., J.P. . . . .	Jan. 15.
China . . . . .	Choo Kin Sing,	. . . . .	First .	N. A. Apollonio,	
Brooklyn, N.Y. .	John . . . . .	Mary . . . . .	First .	Esq., J.P. . . . .	Aug. 24.
China . . . . .	Hie . . . . .	Moy Yen . . . .	First .	William D. Rock-	
Albany, N.Y. . .	Franklin . . .	Joanna . . . . .	First .	wood, Esq., J.P.	Oct. 25.
China . . . . .	Hong Y. . . .	Tihoe Y. . . . .	First .	Henry C. Hubbard,	
San Diego, Cal. .	John H. . . .	Lizzie . . . . .	First .	J.P. . . . .	Oct. 31.

1888.

China . . . . .	Wong Gee . . .	Bay Youck . . .	First .	Henry C. Hubbard,	
New York, N.Y.,	William . . . .	Mary . . . . .	First .	Esq., J.P. . . . .	Mar. 2.
Japan . . . . .	Yeo . . . . .	Man . . . . .	First .	Rev. Walter J.	
New York, N.Y.,	George . . . .	Marie Kelly . .	Second	Swaffield, Boston,	June 20.
China . . . . .	Sam Sing . . .	Oy Hi Yen . . .	First .	Rev. R. L. Greene,	
Boston . . . . .	Edward . . . .	Alice . . . . .	First .	Boston . . . . .	July 18.

1889.

China . . . . .	Leo . . . . .	Mary . . . . .	First .	Rev. Theodore	
Boston . . . . .	James . . . . .	Mary . . . . .	First .	Gould, Boston .	Apr. 24.
China . . . . .	Yee . . . . .	Oy . . . . .	First .	Rev. S. Stanley	
New York, N.Y.,	John . . . . .	Mary . . . . .	First .	Searing, Boston .	Apr. 24.
China . . . . .	John . . . . .	Elizabeth . . .	First .	Rev. R. L. Greene,	
New York, N.Y.,	George H. . . .	Mary A. . . . .	First .	Boston . . . . .	June 10.
China . . . . .	Le Jung . . . .	Unknown . . . .	First .	I. Bartlett Patten,	
W. Harwich . . .	Daniel D. . . .	Anna . . . . .	First .	Esq., J.P. . . . .	June 1.
China . . . . .	Ah Wah . . . .	Unknown . . . .	First .	I. Bartlett Patten,	
New York, N.Y.,	James . . . . .	Mary . . . . .	First .	Esq., J.P. . . . .	June 1.
China . . . . .	Chin . . . . .	Lillie . . . . .	First .	Rev. Theodore	
Boston . . . . .	Martin . . . .	Cath'ne Hawkins	Second	Gould, Boston .	Oct. 2.
China . . . . .	Moy . . . . .	Wong . . . . .	First .	I. Bartlett Patten,	
Concord, N.H. .	George E. . . .	Lizzie . . . . .	First .	Esq., J.P. . . . .	Nov. 5.
China . . . . .	Chin . . . . .	Yune . . . . .	First .	Rev. M. R. Dem-	
Concord, N.H. .	James . . . . .	Mary M. . . . .	First .	ing, Boston . . .	Nov. 5.



## 1890.

No.	Date of Marriage.	Names and Surnames of Groom and Bride.	Residence of both at time of Marriage.	Age in Years.	Occupation of Groom.
695	Mar. 10,	Lung Poy . . . . .	Boston . . . . .	34	Clerk . . . . .
		Eva E. Leach . . . . .	Boston . . . . .	22	Operative . . . . .
712	Mar. 14,	Kung Duck . . . . .	Boston . . . . .	34	Merchant . . . . .
		Annie B. McKay . . . . .	Boston . . . . .	20	Domestic . . . . .
1351	May 5,	Charles Chin . . . . .	Boston . . . . .	32	Cigar-maker . . . . .
		Annabell Jacobson . . . . .	Boston . . . . .	28	Seamstress . . . . .
2442	July 28,	Yee Ling Din . . . . .	Boston . . . . .	25	Tea-dealer . . . . .
		Pauline S. Darc . . . . .	Boston . . . . .	21	Laundress . . . . .
2461	July 24,	Fong Lue Tey . . . . .	Chelsea . . . . .	24	Laundry . . . . .
		Emma West . . . . .	Chelsea . . . . .	21	at Home . . . . .
2584	Aug. 6,	Moy T. Fong . . . . .	Boston . . . . .	27	Laundryman . . . . .
		Mary E. Bennett . . . . .	Boston . . . . .	18	Dressmaker . . . . .
2596	Aug. 8,	Charlie L. Pong . . . . .	Boston . . . . .	40	Cook . . . . .
		Annie R. Locke . . . . .	Boston . . . . .	26	Domestic . . . . .
4981	Dec. 29,	Tomogorow Yabe (Japanese) . . . . .	Boston . . . . .	28	Jeweller . . . . .
		Fannie P. Post . . . . .	Boston . . . . .	20	Clerk . . . . .

## 1891.

88	Jan. 4,	Moy S. Tai . . . . .	Boston . . . . .	30	Laundryman . . . . .
		Lizzie Johnson . . . . .	Boston . . . . .	22	Dressmaker . . . . .
1834	June 3,	Joe Toing . . . . .	Boston . . . . .	25	Laundryman . . . . .
		Mary E. Gerow . . . . .	Boston . . . . .	24	Domestic . . . . .
2751	Aug. 31,	Chin Sam . . . . .	Boston . . . . .	28	Laundryman . . . . .
		Jessie White . . . . .	Boston . . . . .	20	Domestic . . . . .
1695	May 20,	Wong Ark . . . . .	Boston . . . . .	28	Laundryman . . . . .
		Annie O. Donnell . . . . .	Boston . . . . .	19	Dressmaker . . . . .
550	Dec. 7,	Tay H. Lee . . . . .	Boston . . . . .	34	Clergyman . . . . .
		Martha A. Comstock . . . . .	Boston . . . . .	29	Teacher . . . . .

## 1892.

593	Feb. 28,	Charlie Goon . . . . .	Boston . . . . .	33	Cook . . . . .
		Nettie Harrison . . . . .	Boston . . . . .	26	Domestic . . . . .
1275	May 1,	Goon M. Yan . . . . .	Boston . . . . .	31	Laundryman . . . . .
		Frances Whipple . . . . .	Boston . . . . .	21	Dressmaker . . . . .
1477	May 11,	Moy Lee . . . . .	Boston . . . . .	30	Laundryman . . . . .
		Millie Smith . . . . .	Boston . . . . .	20	Dressmaker . . . . .
1533	May 2,	Yee Tan . . . . .	Boston . . . . .	31	Tea-merchant . . . . .
		Nannette Franklin . . . . .	Boston . . . . .	21	Dressmaker . . . . .
2346	July 1,	Wong L. Yum . . . . .	Boston . . . . .	34	Clerk . . . . .
		Ellen F. Fletcher . . . . .	Boston . . . . .	27	Operator . . . . .
2511	July 11,	Chin Chuc Leung . . . . .	Boston . . . . .	25	Laundryman . . . . .
		Mattie M. Hayward . . . . .	Boston . . . . .	21	Dressmaker . . . . .
2635	July 25,	Charles Tow Yon . . . . .	Boston . . . . .	26	Laundryman . . . . .
		Mary E. Dundon . . . . .	Boston . . . . .	24	Dressmaker . . . . .
3324	Aug. 29,	Moy Long Gin . . . . .	Boston . . . . .	26	Salesman . . . . .
		Myra Raymond . . . . .	Boston . . . . .	22	Dressmaker . . . . .
1637	May 9,	Sing Wong . . . . .	Boston . . . . .	26	Laundryman . . . . .
		Amanda Leforest . . . . .	Boston . . . . .	19	Teacher . . . . .
2597	July 9,	Charley Hoy . . . . .	Boston . . . . .	28	Tea-merchant . . . . .
		Hattie F. Sawyer . . . . .	Boston . . . . .	23	Domestic . . . . .



1890.

Place of Birth of Each.	Names of Parents.		1st, 2d, 3d, or 4th Marriage.	Name and Official Station of Person by whom Married.	Date of Registry.
China . . . . .	Foett . . . . .	Hamshe . . . . .	First .	Rev. John W. Olm-	
Portland, Me. . . .	Lyman . . . . .	Phebe . . . . .	First .	stead, Boston . .	Mar. 11.
China . . . . .	Kung . . . . .	Wong . . . . .	First .	Clifford H. Plum-	
Miramichi, N.B. . .	James E. . . . .	Annie P. . . . .	First .	mer, J.P. . . . .	Mar. 14.
China . . . . .	Chin . . . . .	Who . . . . .	First .	Edwin H. Darling,	
Hudson . . . . .	William G. . . . .	Isabell Hubbel .	Second	Esq., J.P. . . . .	May 12.
China . . . . .	Yin . . . . .	Ling . . . . .	First .	Rev. E. F. Merri-	
Boston . . . . .	Edward A. . . . .	Mary E. Keller .	Second	am, Boston . . .	July 30.
China . . . . .	Bow Sing . . . .	Lee-king . . . .	First .	Joseph Guttentag,	
Watertown . . . . .	Ambrose . . . . .	Mary . . . . .	First .	J.P. . . . .	July 28.
China . . . . .	Moy T. . . . .	Woh . . . . .	First .	Henry N. Sheldon,	
Nova Scotia . . . .	Philip . . . . .	Charlotte . . . .	First .	Esq., J.P. . . . .	Aug. 6.
China . . . . .	Pong Ah . . . . .	Chin . . . . .	First .	Nathan P. Ryder,	
Roxbury . . . . .	William . . . . .	Ann Kelly . . . .	Second	Esq., J.P. . . . .	Aug. 9.
Japan . . . . .	Kewtarow . . . .	Tora . . . . .	First .	Rev. Emory J.	
Boston . . . . .	Arthur L. . . . .	Elizabeth C. . . .	First .	Haynes, Boston,	Dec. 30.

1891.

China . . . . .	You . . . . .	Que . . . . .	First	I. Bartlett Patten,	
Harlem, N.Y. . . .	William . . . . .	Rosanna . . . . .	First .	Esq., J.P. . . . .	Jan. 7.
China . . . . .	Joe . . . . .	Lizzie . . . . .	First .	Marcus Kallmann,	
St. John, N.B. . . .	George . . . . .	Sarah . . . . .	First .	J.P. . . . .	June 4.
China . . . . .	Chin Ping . . . .	Chin Lee . . . . .	First .	I. Bartlett Patten,	
Boston . . . . .	Hiram . . . . .	Florence . . . . .	First .	Esq., J.P. . . . .	Sept. 1.
China . . . . .	Wing . . . . .	Ah . . . . .	First .	I. Bartlett Patten,	
Boston . . . . .	James O. . . . .	Margaret . . . . .	First .	Esq., J.P. . . . .	June 2.
Canton, China . . .	Yin Gong . . . .	Ng Noyes . . . .	First .	Rev. Laurence	
Charlestown . . . .	Eli B. . . . .	Eunice E. . . . .	First .	Phelps, Chelsea,	Dec. 10.

1892.

China . . . . .	Sam . . . . .	Mary . . . . .	First .	I. Bartlett Patten,	
Lewiston, Me. . . .	Charles . . . . .	Sarah . . . . .	First .	Esq., J.P. . . . .	Feb. 29.
China . . . . .	Goon . . . . .	Gook . . . . .	First .	I. Bartlett Patten,	
Boston . . . . .	James . . . . .	Annie White . . .	Second	Esq., J.P. . . . .	May 17.
China . . . . .	Moy . . . . .	Moy . . . . .	First .	Anson Stern, Esq.,	
New York, N.Y., . .	Charles . . . . .	Annie . . . . .	First .	J.P. . . . .	May 12.
Canton, China . . .	Yee . . . . .	Wah . . . . .	First .	Rev. S. H. Wink-	
Washington, D.C. .	Frank . . . . .	Annie . . . . .	First .	ley, Boston . . .	May 9.
China . . . . .	Joe G. . . . .	Ak Lee . . . . .	First .	Edward J. Holland,	
Boston . . . . .	Michael . . . . .	Eliza Clark . . . .	Second	Esq., J.P. . . . .	July 2.
Hong Kong, China .	Chin . . . . .	Con . . . . .	First .	Edward J. Jones,	
Portsmouth, N.H. .	Thomas L. . . . .	Jennie G. . . . .	First .	Esq., J.P. . . . .	July 12.
China . . . . .	Ying Lee . . . . .	Allie . . . . .	First .	Edward J. Holland,	
Boston . . . . .	Daniel . . . . .	Bridget Shea . . .	Second	Esq., J.P. . . . .	July 26.
China . . . . .	Moy Yeun An, . .	Moy Toy Fong . .	First .	Edward J. Holland,	
Ireland . . . . .	John . . . . .	Ellen . . . . .	First .	Esq., J.P. . . . .	Aug. 30.
China . . . . .	You . . . . .	Lee . . . . .	Second	I. B. Patten, Esq.,	
Three Rivers, Can. .	Alexander . . . .	Caroline . . . . .	First .	J.P. . . . .	May 13.
China . . . . .	Chin . . . . .	Ping . . . . .	First .	Lawrence W. Grif-	
Boston . . . . .	Henry . . . . .	Mary York . . . .	Second	fin, J.P. . . . .	July 19.



## APPENDIX E.

## Still-Births for the Year 1892.

	M.	F.	U.	Total.		M.	F.	U.	Total.
January . . . . .	28	17	. . .	45	July . . . . .	24	26	. . .	50
February . . . . .	25	24	. . .	49	August . . . . .	33	22	1	56
March . . . . .	31	20	1	52	September . . . .	19	24	2	45
April . . . . .	42	15	1	58	October . . . . .	35	20	. . .	55
May . . . . .	33	26	. . .	59	November . . . . .	34	24	1	59
June . . . . .	36	23	1	60	December . . . . .	35	21	. . .	56
	195	125	3	323		180	137	4	321
									323
					Total . . . . .	. . .	. . .	. . .	644

Included in the above table are eighteen *colored* Still-Births, nine males, eight females, and one unknown.

## Colored Still-Births by Months.

	M.	F.	U.	Total.		M.	F.	U.	Total.
January . . . . .	1	. . .	. . .	1	July . . . . .	1	2	. . .	3
February . . . . .	1	1	. . .	2	August . . . . .	1	. . .	. . .	1
March . . . . .	. . .	. . .	. . .	. . .	September . . . .	1	. . .	1	2
April . . . . .	. . .	2	. . .	2	October . . . . .	1	. . .	. . .	1
May . . . . .	1	1	. . .	2	November . . . . .	. . .	1	. . .	1
June . . . . .	2	1	. . .	3	December . . . . .	. . .	. . .	. . .	. . .
	5	5	. . .	10		4	3	1	8
									10
					Total . . . . .	. . .	. . .	. . .	18





# LIST OF CITY CLERKS, 1893.

CITIES.	INCORPORATED.	CLERKS.
Boston . . . . .	1822	{ J. M. Galvin. W. H. Whitmore (Registrar).
Salem . . . . .	1836	H. M. Meek.
Lowell . . . . .	1836	M. J. Dowd.
Cambridge . . . . .	1846	W. W. Pike.
New Bedford . . . . .	1847	D. B. Leonard.
Worcester . . . . .	1848	E. H. Towne.
Lynn . . . . .	1850	C. E. Parsons.
Newburyport . . . . .	1851	G. H. Stevens.
Springfield . . . . .	1852	E. A. Newell.
Lawrence . . . . .	1853	W. T. Kimball.
Fall River . . . . .	1854	G. A. Ballard.
Chelsea . . . . .	1857	G. B. Gurney.
Taunton . . . . .	1864	E. A. Tetlow.
Haverhill . . . . .	1869	W. W. Roberts.
Somerville . . . . .	1871	G. I. Vincent.
Fitchburg . . . . .	1872	W. A. Davis.
Holyoke . . . . .	1873	T. D. O'Brien.
Gloucester . . . . .	1873	J. J. Somes.
Newton . . . . .	1873	I. F. Kingsbury.
Malden . . . . .	1881	L. D. Holden.
Brockton . . . . .	1881	D. C. Packard.
Northampton . . . . .	1883	E. I. Clapp.
Waltham . . . . .	1884	L. N. Hall.
Quincy . . . . .	1888	C. A. Spear.
Woburn . . . . .	1888	E. H. Lounsbury.
Pittsfield . . . . .	1889	K. B. Miller.
Chicopee . . . . .	1890	J. D. White.
Marlborough . . . . .	1890	P. B. Murphy.
Medford . . . . .	1892	A. P. Joyce.
Everett . . . . .	1892	J. H. Cannell.

63502.14

ANNUAL REPORT

OF THE

REGISTRY DEPARTMENT

OF THE

CITY OF BOSTON,

FOR THE

YEAR 1893.

[The first report of this department was for the year 1840. No report was issued for the years 1860 and 1861. The title-page of the report for 1882 is wrongly printed as Document 89 of 1882, instead of 1883.]



BOSTON:

ROCKWELL AND CHURCHILL, CITY PRINTERS.

1894.



## A MYSTERY OF THE BALLOT.

(From the *Nation* for April 14, 1892.)

IN looking over the pages of the *Historical Magazine* I noticed an article copied from the *Boston Advertiser* for some date about A.D. 1860, calling attention to a matter which has often puzzled those who have counted ballots. It is this: when several persons ballot honestly to choose several persons on one ballot, how is it that more than the necessary number receive a majority of ballots? For example: if five men each vote for three candidates, requiring thus three votes to elect, why is it that more than three of them get three votes? In dealing with larger figures, the number of successful candidates may be so many as to almost double the list. I have known some such instances, and have often heard the statement that the result was impossible and showed evident fraud. After studying the example given in the article quoted, I believe that I discern the principle, a very simple one, but I have never happened to see it stated. I will therefore do so, believing that many persons share my ignorance and will be glad to see an explanation.

The rule seems to be this: multiply the number of officers to be chosen by the number of votes, and divide the result by the number required for an election; the quotient will be the number of persons who can be elected, and the remainder will represent unnecessary or cumulative votes, which may be discarded.

Thus, if five voters each vote for three candidates, a total of fifteen votes is cast; which, divided by three, the number necessary for a choice, gives five candidates receiving a majority vote.

Example:

A	votes for candidates	1, 2, 3.
B	“ “ “	1, 2, 3.
C	“ “ “	1, 4, 5.
D	“ “ “	2, 4, 5.
E	“ “ “	3, 4, 5.

The individual ballot might be varied considerably, always resulting, however, in a majority vote for five candidates. In fact, as the majority is always a little more than one-half the number of voters, the quotient in the rule must always be at least one less than double the number of candidates; but the greater the number of voters and candidates, the less the discrepancy will be. In fact, the true answer to the problem seems to be this: the number of candidates receiving a majority may always amount to twice the number voted for on one ballot, *less one* invariably, and also less a few more, according to the results of the rule. But I think it will surprise most persons to find that if 100 persons ballot for 30 candidates, 58 could receive a majority vote, or 51 votes apiece; though a little explanation makes it self-evident.

ANNUAL REPORT  
OF THE  
REGISTRY DEPARTMENT  
OF THE  
CITY OF BOSTON,  
FOR THE  
YEAR 1893.

[The first report of this department was for the year 1849. No report was issued for the years 1860 and 1861. The title-page of the report for 1882 is wrongly printed as Document 89 of 1882, instead of 1883.]



BOSTON:  
ROCKWELL AND CHURCHILL, CITY PRINTERS.  
1894.





BOSTON, July, 1894.

HON. NATHAN MATTHEWS, JR.,

*Mayor of the City of Boston :*

SIR: In compliance with the ordinance, I beg leave to report that, according to our books, there were recorded for the year 1893

14,602 births { including 155 children of parents usually residing out of this city.  
130 born out of town of Boston parents.  
and 29 which were entered here by mistake.

6,564 intentions of marriage.

5,755 marriages solemnized in this city.

824 marriages of citizens married elsewhere in the State, including 92 marriages of citizens married out of the State.

11,713 deaths.

645 still born children. (See Appendix B.)

As compared with last year:

	1892.	1893.
Births . . . . .	15,154	14,602
Intentions . . . . .	6,516	6,564
Marriages . . . . .	5,670	5,755
Deaths . . . . .	11,241	11,713

#### BIRTHS.

The births of 1893 were largely reported by physicians and midwives, over ten thousand being so returned. This shows a cheerful compliance with the law on the part of the physicians, and as the law was not enforced before the autumn of 1892, the results are fully equal to expectation. Since January 1894, the reports have been increasing, and several of the midwives having a large practice have complied with the law. The annual house-to-house visitation was made this year by Mr. John W. Slavin, who for several years has made the census of school-children. He was furnished with books, wherein to record the births, (as was done for 1892,) and moreover he was furnished with memoranda of all the returns already reported by physicians. In



this way many small errors were corrected, and the Christian names of many children obtained.

It will be noticed that there is a slight decrease in the number of births from 1892, viz. 552, or nearly 4 per cent. It seems reasonable to attribute this to the depression in business, which had a tendency to check immigration and to cause a considerable emigration of the most prolific class of inhabitants. The death returns afford no check upon the estimates of population, as special forms of sickness may increase the number of deaths in any year. Although the marriages for 1893 showed the usual annual increase of about 2 per cent, the applications since January 1st, 1894 have fallen off very materially, (being for the first six months of 1893, 3250, and in this year 2805,) nearly 14 per cent less. It seems fair to conclude that the population of the city was smaller in December 1893 than that of the year previous.

#### MARRIAGES.

During 1893 we received no intentions of marriage between Chinamen and white women. In December a case occurred which aroused public interest. An Italian girl only twelve years and a half old, was forced by her parents to apply for a license to marry a man aged twenty-one. The child was a most unwilling party, and it seemed probable that the father was to receive a considerable sum from the groom for his consent. The case brought into prominence the wide difference between our ideas and customs and those of some recent immigrants, and also revealed the defects in our laws. Notwithstanding that recent statutes have raised the age of consent for females, in the case of assault and criminal connection, it was found to be beyond question that in Massachusetts the common-law limit of age was retained in cases of regular marriages. By chap. 466 of Acts of 1893, the age of consent in criminal cases was raised to sixteen years; but the Supreme Court decided in 1854, in the case of *Parton vs. Hervey* (1 Gray, 119) that "by the common law, both in England and in this country, the age of consent is fixed at twelve in females and fourteen in males." . . . "We are all of opinion that the marriage between these parties, both being of the age of consent, was valid and binding, although had and solemnized without the consent of the parent and guardian of the female."

It seemed therefore that *with the consent of parents*, not only was a marriage legal when one or both of the parties was of such tender age, but there was no way to prevent it.

Public attention in Boston was aroused, and the Society for the Prevention of Cruelty to Children petitioned the Legislature of 1894 for a new law. The act obtained is chapter 401, which went into effect May 18, 1894. It prohibits town and city clerks and registrars from receiving notice of an intention of marriage if the male is under eighteen years or the female under sixteen, unless so ordered by a judge of probate, as provided in the law.

Acting under the consent of the Mayor, the Registrar during the present session of the Legislature presented the bills approved by the City Clerks' Club of this state, in amendment to the laws regarding records and marriages. The result was the passage of chapter 402 in regard to records, and chapter 409 in regard to marriages and licenses.

As to records, by chap. 305 of Acts of 1892 it was made impossible for a clerk to alter or amend the official record of births, deaths and marriages, unless "to correct a clerical error made by himself or some person under his direction." The hardship of this rule in Boston is shown by the fact that from 1849 to 1892 all births were recorded on the report of a collector sent from house to house. If he made an error it could not be corrected although the evidence was overwhelming. It could not be altered even if it were contradictory or impossible. The new law allows corrections, 1st. upon such evidence as was required by law for the original entry; 2d. upon a certified copy of the record in any other city or town; and 3d. on a record made at the time by any person, since deceased, who was required by law to furnish the evidence of a birth, death or marriage.

In regard to the first point, the law always intended that the parent should report the birth of a child, and his evidence ought to control the report of a collector, especially where an error was obvious. The third point is intended to allow a clerk to copy and enter a record made in due form, as in a family Bible, by a parent now deceased. I sincerely trust that this law will be largely used in Boston, to enable us to make a record for the first half of this century. It will also be of use in completing marriage records where the clergyman neglected to make returns to the city clerk although he made due entry on his church record. The second point, copying from other official records is important. I find in Boston for several years after 1849, the following custom obtained: after the issuing of the notice of intention of marriage, if the parties expressed an intention to be married outside of Boston, the name of the proposed place was entered on the index under the marriages. No attempt was made to see if the marriage was



actually performed, and the records stand incomplete. By following these clues even now, probably a considerable number of marriages can be found.

#### MARRIAGE LAWS.

By chapter 409 of 1894 several minor changes were made in the general laws respecting marriages and intentions. The more striking changes are, first, the power given to duly authorized clergymen and rabbis to solemnize marriages anywhere in the state; and second, the punishment for giving notice of an intention of marriage, unless both parties consent. This last clause refers to the case, not unknown in our experience, where a man has obtained a license to marry a girl, intending thereby to have her name thus associated with his, and from malicious motives. As the records of marriage intentions are often preserved, though not a part of the official books, such entries may prove annoying hereafter, and the new law will prove advantageous.

The minor changes define that marriage intentions must be in writing, and must be given by one of the parties to the intended marriage or his parent or guardian. A city clerk is allowed to exercise a discretion in regard to receiving notices, the legislature recognizing the fact that the conditions in cities vary so greatly from those in towns. The present law offers ample opportunities for fraudulent statements, for which no adequate remedy can be proposed which will not materially restrict the present loose system.

One method might be taken to secure the return of certificates of marriage. At present these documents are open warrants which can be used by any clergyman or justice of the peace. If the applicant were obliged to name the person who was to solemnize the marriage and the certificate could be used only by such person, it would be possible for the clerk to trace out every certificate not returned in proper season. Even if the celebrant was described by his office rather than his name, as "the minister of the First Baptist Church in Boston" or "the priest of St. Mary's Church, Boston," the clerk would still know where to look for information. The restriction would be as light as possible, but the result would certainly be of great value to the public records.

## DEATHS.

The full statistics published by our Board of Health, make it unnecessary for this department to give statistics. I have however prepared a list of persons who died in 1893, who were noticeable for any reason, including longevity. (See Appendix E.) It would seem reasonable that some record should be made in Boston of persons long resident here, who may die in other states or countries. The law does not require it, but quite a number of cases occur every year.

## CONSOLIDATED INDEXES.

The work in 1893 consisted in preparing the cards by typewriters, for the indexes of births, marriages and deaths, from 1849 to 1882. This part was completed within the year. Then the cards were compared with and corrected by the record-books, and numerous errors and omissions were rectified. The preparation of the completed, alphabetical, consolidated Index was in progress also, as fast as the material was ready. At this date (July 1) the Index of Deaths from 1849 to 1869 is complete and in use; the Index of Deaths for 1870 to 1881 is in the binder's hands. The Index of Births for the first period is nearly written; the cards are all finished and arranged for the second period. The Marriage Index is nearly ready for the writers.

## ANCIENT RECORDS.

Two volumes of Town Records are in the printer's hands and will be issued this year.

This department has also undertaken to print in *fac-simile*, the two volumes of plans of Boston streets, made by order of the Selectmen of the town in 1819-20, by John G. Hales. This perambulation of the street lines, in connection with the list of owners of estates returned for the United States Direct Tax of 1796 (Report No. 22) will be of great service to conveyancers. This book is now in press.

Also, under the statute, I have begun the reprint of the Addresses of the Mayors, and the first volume of about 400 pages will cover the period from 1822 to 1851 inclusive. The original printed documents are extremely scarce, like all other city documents of date prior to 1840, and these ad-



dressess possess very considerable importance to the student of civic history. With the approval of his honor the Mayor, I have decided to make a series of volumes to cover the subject, provided the City Council continues the annual appropriations.

The financial statement, as kept in the accounts of the Superintendent of Printing, is as follows:

CR.	
Balance February 1, 1893 . . . . .	\$4,184 61
Appropriation, 1893 . . . . .	3,000 00
	<u>\$7,184 61</u>
DR.	
Cost of 23d Report Record Com. . . . .	\$553 30
Cost of volume of Vital Statistics . . . . .	517 93
Paid on account of Hale's Book of Maps of Boston (in press) . . . . .	1,000 00
	<u>\$2,071 23</u>
Balance February 1, 1894 . . . . .	5,113 38
	<u>\$7,184 61</u>

The work of rebinding and arranging the volumes of original records has continued as fast as possible. The fact that the volumes are in daily use prevents any haste. The Emery system of covering the old documents with silk has had the approval of experts, and is still being applied.

I have received from the Overseers of the Poor a number of documents, evidently belonging on the files of the town, bearing date in the last century. These will be put in proper condition for use at the earliest possible moment. The City Clerk has in his custody a few books of record which have an antiquarian value. Among these may be mentioned a List of Timber Buildings, 1707-1729; Selectmen's Pay-rolls, 1734; Jurors' Books, 1742; List of Immigrants, 1763-1769; Five Committees' Book, 1760, and a Book of Laborers', 1774. Some of these I hope to print in the near future.

This department has also acquired during the year a manuscript record of baptism and deaths in Dorchester from 1748 to 1793, kept by Samuel Withington, jr.

#### MARRIAGE LAWS.

In view of the repeated changes which have been made in the laws of this Commonwealth in relation to marriages and records, and the difficulty of obtaining these laws for examination, it seemed desirable to make a compilation of them which will be found in an Appendix.

The Financial Statement which was made by me on February 15th (City Doc. No. 60) is herewith reprinted.

Respectfully submitted,

WILLIAM H. WHITMORE,  
*City Registrar.*

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NOTE. — At the last moment it is necessary to mention the death on July 24, 1894, of John Charles Short, who was appointed to be Assistant City Registrar, July 21, 1892.



## FINANCIAL STATEMENT.

Cash on hand February 1, 1893 (City Doc. No. 31, p. 10) . . . . .	\$396 00
Appropriation for 1893 . . . . .	33,500 00
	<hr/>
	\$33,896 00

## RECEIPTS.

Received for Marriage Licenses, from  
February 1, 1893, to January 30, 1894,  
inclusive :

* Nos. 536 @ 6,564, of 1893, = 6,028 certificates	
Nos. 1 @ 515, of 1894, = 515 " "	
6,543 " @ 50c. =	3,271 50
	<hr/>
	\$37,167 50

## EXPENDITURES.

Salaries, regular employees . . . . .	\$18,043 60
Collecting births of 1892 . . . . .	3,347 50
Extra work on Consolidated Indexes . . . . .	6,511 32
Binding old records in office . . . . .	1,984 12
Printing and stationery . . . . .	2,141 61
Sundries . . . . .	576 37
	<hr/>
	\$32,604 52
Transfer by Auditor February 1, 1894 . . . . .	895 48
	<hr/>
	\$33,500 00

Paid physicians for 10,838 births at 25c., re-  
ported from January 19, 1893, to February  
1, 1894, as per vouchers paid in by me to  
the Auditor, viz. :

January 19 @ May 20, '93 . . . . .	\$809 25
May 22 @ August 21, '93 . . . . .	615 50
August 20, '93 @ February 1, '94, . . . . .	1,284 75
	<hr/>
	2,709 50
Cash paid City Collector, per vouchers . . . . .	800 00
	<hr/>
	\$37,009 50
Cash balance February 1, 1894 . . . . .	158 00
	<hr/>
	\$37,167 50

\* No. 3,531 was never issued.

## APPENDIX A.

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### NEW LEGISLATION—ACTS OF 1894.

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#### CHAPTER 206—OF ACTS OF 1894.

AN ACT RELATING TO RETURNS OF BIRTHS, MARRIAGES, AND DEATHS.

*Be it enacted, etc., as follows:*

Section ten of chapter thirty-two of the Public Statutes is hereby amended by inserting in the first line after the word "town" the words "except Boston," and by adding at the end of said section the words, "the city registrar of Boston shall transmit the copies of his record on or before the first day of May annually," so as to read as follows:

"*Section 10.* The clerk of each city and town, except Boston, shall annually, on or before the first day of March, transmit to the secretary of the Commonwealth certified copies of the records of the births, marriages, and deaths which have occurred therein during the year ending on the last day of the preceding December. The city registrar of Boston shall transmit the copies of his records on or before the first day of May annually.

*Approved April 5, 1894.*

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#### CHAPTER 401.

AN ACT CONCERNING THE MARRIAGE OF MINORS.

*Be it enacted, etc., as follows:*

SECTION 1. No town or city clerk or registrar shall receive a notice of the intention of marriage of any male under the age of eighteen years, nor of any female under the age of sixteen years, except as hereinafter provided.

SECT. 2. The judge of probate in any county, after due hearing, may make an order allowing the marriage of a minor under the age specified in the preceding section: *provided*, that said minor resides in a city or town within the county wherein said judge holds court; and *provided, also*, that the father of such minor, or in case of his death the mother, has consented to such order, and that in case neither parent is alive and resident in this Commonwealth a legal guardian has been appointed, whose consent has been given to such order. On the receipt of a certified copy of such order by the clerk or registrar of the town or city where such minor resides, he shall receive the notice required by law and issue a certificate as in other cases.

SECT. 3. This act shall take effect upon its passage.

*Approved May 18, 1894.*



## CHAPTER 402.

## AN ACT RELATIVE TO RECORDS OF BIRTHS, DEATHS, AND MARRIAGES.

*Be it enacted, etc., as follows:*

SECTION 1. Section two of chapter three hundred and five of the acts of the year eighteen hundred and ninety-two is hereby amended by striking out all of said section to and including the word "direction," in the fifth line, so as to read as follows:

"Section 2. Whenever it is deemed expedient to make a new copy of any earlier records, each page shall be verified and signed by the clerk or registrar, and such record while preserved in proper custody shall have the same force and effect as the original record."

SECT. 2. No town or city clerk or registrar shall alter or add to any record of a birth, death, or marriage already entered in any book or formal list in his charge, except upon such evidence as was required by law for the original entry, or upon a certified copy of the record of any other city or town, or of the record made at the time by any person since deceased, who was required by law to furnish the evidence of birth, death, or marriage, and such correction shall be at his discretion. In no case shall the first entry be erased, but all corrections shall be added.

SECT. 3. This act shall take effect upon its passage.

*Approved May 18, 1894.*

## CHAPTER 409.

## AN ACT RELATIVE TO MARRIAGES AND THE ISSUING OF CERTIFICATES THEREFOR.

*Be it enacted, etc., as follows:*

SECTION 1. City clerks and registrars may require notices of intention of marriage to be given to them in writing, on blanks to be furnished by them, by one of the parties to such intended marriage, or by his or her parent or legal guardian, and may require the party giving such notice to make oath before them to the truth of all the statements therein whereof he or she could have knowledge. No fee shall be charged for administering such oath.

SECT. 2. Any city clerk or registrar may refuse to issue a certificate to any parties, in case he has reasonable grounds to believe that any of the statements contained in the notice of intention of marriage are incorrect; but he may, in his discretion, accept depositions under oath, made before him, and such depositions shall be taken and deemed to be sufficient proof of the facts therein stated to authorize the issuing of a certificate. A city clerk or registrar may dispense with the statement of any of the facts required by law to be given in notices of intention of marriage, whenever such facts do not relate to or affect the identity or age of the parties, if he is satisfied that the same cannot be obtained with reasonable effort.

SECT. 3. No city clerk or registrar shall be required to receive notices of intention of marriage at any place except his office, nor shall he be required to receive such notices on the Lord's day or public holidays.

SECT. 4. Whenever, in the marriage of a minor, it is necessary to give notice in two towns or cities, the town or city clerk or registrar who first takes the consent of the parent or guardian shall take it in dupli-

cate, retaining one copy and delivering the other duly attested by him to the party obtaining the certificate, to be given to the clerk or registrar issuing the second certificate; and no fee shall be charged for such consent or copy.

SECT. 5. Any clergyman or rabbi duly authorized to solemnize a marriage in this Commonwealth may perform the ceremony anywhere within the same.

SECT. 6. No person shall give the notice of intention of marriage required by law without the consent of both the parties to such intended marriage, and any person giving such notice without such consent shall be liable in an action of tort to the person whose name was so used without such consent for all damages thereby sustained by such person.

SECT. 7. The superior court, upon petition of either of the parties alleged to intend marriage in a notice of intention of marriage, given without the consent of both the parties therein alleged to intend marriage, and not followed by a marriage between said parties, may, upon such notice as said court may order and after a hearing upon such petition, adjudge that such notice of intention of marriage be cancelled and expunged from the records of the city or town in which the same was recorded.

SECT. 8. Whoever violates any of the provisions of this act shall upon conviction thereof within one year after such violation, be punished by a fine not exceeding five hundred dollars or by imprisonment in jail or in the house of correction for not more than one year, or both.

*Approved May 19, 1894.*



## APPENDIX B.

## Still Births for 1893.

	M.	F.	U.	Total.
January .....	30	27	3	60
February .....	34	21	2	57
March .....	27	24	2	53
April .....	31	27	3	61
May .....	22	21	1	44
June .....	27	14	2	43
July .....	27	22	3	52
August .....	32	28	2	62
September .....	25	27	1	53
October .....	22	20	...	42
November .....	25	30	...	55
December .....	39	23	1	63
Total .....	341	284	20	645

Included in the above table are thirteen *Colored* Still-births, five males and eight females.

	M.	F.	Total.
January .....	...	...	...
February .....	1	1	2
March .....	1	...	1
April .....	1	...	1
May .....	...	...	...
June .....	...	...	...
July .....	...	2	2
August .....	1	2	3
September .....	...	1	1
October .....	1	...	1
November .....	...	1	1
December .....	...	1	1
Total .....	5	8	13

## APPENDIX C.

The two following acts were submitted to the Legislature but were not approved.

### AN ACT TO ESTABLISH THE NAMES OF PERSONS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by authority of the same, as follows:*

SECTION 1. Every child born in lawful wedlock shall bear his father's surname. Married women shall take their husband's surnames, but may also retain their paternal surnames as a prefix thereto. Either form shall be a sufficient description for all legal instruments and purposes.

SECT. 2. Illegitimate children shall take the surnames of their mothers. Foundlings and infants of unknown parentage shall be given as surnames one of the twelve surnames which shall be most numerous in the Commonwealth as shown by the last census preceding such naming.

SECT. 3. The Christian names of children given at baptism, and such as have been furnished by the parents to the city or town clerks or registrars, may be changed by written notice given by the parents to the clerk or registrar of the city or town wherein the child was born, at any time before such child is five years old. After that age no change shall be made except in accordance with chapters one hundred and forty-six and one hundred and forty-eight of the Public Statutes. The court fees for allowing and recording such change of the name of a minor shall not exceed three dollars in each case.

Any change of name made by order of any court shall be certified by the clerk thereof to the clerk or registrar of the city or town in which the person was born.

SECT. 4. Christian names added at confirmation shall not be a part of the legal name. The presence or absence of such confirmation name or its abbreviation shall not be considered in any designation of a person for any purpose.

### AN ACT CONCERNING TOWN AND CITY SEALS.

SECTION 1. Any town may at a legal meeting of its citizens adopt a town seal, which shall not thereafter be changed without the consent of a majority of the legal voters of such town, after due notice, at an annual meeting.

SECT. 2. Every town and city seal shall have as a component part an inscription denoting that it is the seal of such town or city. Every town and city may also adopt a device or arms which shall be used exclusively for the purposes of such town or city, under such restrictions as it may make by by-laws or ordinances. All official boards and commissions and all departments of cities may adopt official seals or emblems.

SECT. 3. Towns and cities shall notify the secretary of the Commonwealth of their action under this act.

SECT. 4. The penalties provided by Public Statutes, chapter two hundred and five, section twenty-six, for the use of city and town seals shall apply to similar misuse of seals and devices specified in section two of this act.

SECT. 5. In towns the seal shall be in the custody of the town clerk, who shall be entitled to a fee of twenty-five cents for making an impression thereof on documents requiring such seal.

In cities the custody of the seal and the fee for its use shall be prescribed by ordinance.



## APPENDIX D.

DATE.			AGE.
Jan.	1	Albert Howard . . . . .	59
	5	James H. Howe (Lawyer) . . . . .	65
	6	Margaret McGinnis . . . . .	91
	9	Charlotte H. Carpenter . . . . .	87
	10	Joseph F. Barker (Reporter killed at fire) . . . . .	26
	10	Ellen O'Brien . . . . .	87
	13	Eliza B. Hastings . . . . .	93
	15	Jonas Fillebrown . . . . .	88
	15	Moses W. Weld (M.D.) . . . . .	75
	16	George R. Eddy . . . . .	92
	17	Lemuel M. Willis (M.D.) . . . . .	67
	17	Sarah Gaw . . . . .	86
	18	Samuel W. Howe (M.D.) . . . . .	72
	19	Sophia Peirce . . . . .	85
	19	Julius Eichberg (Musician) . . . . .	68
	19	Catherine Hoffman . . . . .	86
	20	Ann Boles . . . . .	93
	23	Phillips Brooks (Rev.) . . . . .	57
	26	Livingston A. Sargent (Lawyer) . . . . .	85
	27	Garrett W. Palmer (M.D.) . . . . .	25
	27	Margaret E. Newling . . . . .	93
	28	Mary Drinan . . . . .	86
	29	Mary L. Dorrah . . . . .	87
	30	James Cain . . . . .	87
	30	Nelson Beckwith . . . . .	88
	31	Emma A. Crawford . . . . .	85
	31	Edward H. Savage (Probation Officer) . . . . .	80
Feb.	1	Bernard McDermott . . . . .	92
	1	Ann S. Fisher . . . . .	88
	2	Joseph S. Waterman (Undertaker) . . . . .	63
	3	Abigail Thayer . . . . .	91
	3	Elizabeth Dickerman . . . . .	86
	5	Patrick Mulvey . . . . .	93
	6	Susan W. Ware . . . . .	87
	7	John F. Biscoe (Lawyer) . . . . .	42
	11	Mary A. Tuttle . . . . .	81
	13	Charles C. Heath . . . . .	86
	14	Andrew Dowd . . . . .	93
	14	Sarah Kilduff . . . . .	85
	15	Isabella Cass . . . . .	89
	18	Johanna Murray . . . . .	85
	19	Ann M. King . . . . .	90
	21	Robert C. Waterston (Rev.) . . . . .	80
	24	Amelia B. Fisher . . . . .	85
	25	Elizabeth Gaskins . . . . .	89
	26	David Brown (M.D.) . . . . .	79
	26	Dexter Babcock . . . . .	96
	26	Louisa Forster . . . . .	88
Mar.	1	William B. Eldridge . . . . .	72
	1	William M. Wesson . . . . .	86
	4	Bridget McDevitt . . . . .	86
	6	Jeremiah Mahoney . . . . .	87

# REGISTRY DEPARTMENT.

15

DATE.			AGE.
Mar.	8	Eunice Hooper . . . . .	92
	11	Mary Daley . . . . .	95
	13	Hannah Hanes . . . . .	92
	14	Charles P. Strong (M.D.) . . . . .	37
	15	William O'Brien . . . . .	90
	17	John H. McDonough (Lawyer) . . . . .	35
	20	Dennis Leary . . . . .	92
	22	George C. Shattuck (M.D.) . . . . .	79
	23	John M. Tuohay (Lawyer) . . . . .	43
	26	George A. Bjorkman (M.D.) . . . . .	39
	26	Luke Mulhearn . . . . .	90
	30	John H. Hichborn . . . . .	92
	30	Mary C. Mifflin . . . . .	86
Apr.	7	Nathaniel Winsor . . . . .	86
	9	Ann Burke . . . . .	102
	12	Tamar C. Francis . . . . .	99
	12	Joseph G. Russell . . . . .	88
	14	Richard Rhodes . . . . .	86
	15	Nancy McGunnigle . . . . .	86
	15	Mary B. Murch . . . . .	89
	15	John P. Santry . . . . .	40
	17	Gottfried H. Merkel (M.D.) . . . . .	52
	18	Mary Hooper . . . . .	89
	20	William S. Otis (Lawyer) . . . . .	35
	20	John W. Sullivan (Rev.) . . . . .	31
	22	Thomas Hughes . . . . .	86
	23	Ambrose Lawrence (M.D.) . . . . .	76
	25	Elisha Hathaway . . . . .	86
May	27	Mary Dailey . . . . .	86
	29	Mary B. Emmons . . . . .	90
	2	John H. Greene (Rev.) . . . . .	78
	2	Benjamin S. Shaw (M.D.) . . . . .	65
	4	Mary J. Sargent . . . . .	91
	4	Adam Knox . . . . .	87
	5	Luther L. Ryerson (Humorist) . . . . .	61
	7	Sophia A. Badger . . . . .	94
	10	David Clapp . . . . .	87
	11	Adah Jones . . . . .	91
	11	Elizabeth W. Black . . . . .	87
	13	Anna Beal . . . . .	87
	13	Elizabeth Henderson . . . . .	89
	15	Rhoda Bancroft . . . . .	91
	16	Susan F. Sumner . . . . .	88
June	17	Hannah Riley . . . . .	90
	22	Fannie B. Glines . . . . .	91
	22	Rowland Cummings . . . . .	94
	26	John M. Way (Lawyer) . . . . .	64
	1	Walter Emerson (Musician) . . . . .	37
	11	Francis J. Munroe (Lawyer) . . . . .	68
	14	Cyrus F. Carter (M.D.) . . . . .	31
	24	William T. S. Wardwell (M.D.) . . . . .	33
	25	Sarah L. Carpenter . . . . .	90
	28	Mary S. Randall . . . . .	91
	29	Henry Pfaff (Brewer) . . . . .	66
	30	Elmond Kennedy . . . . .	90
July	3	Eunice Ruggles . . . . .	91
	8	Timothy Calnan . . . . .	90
	8	Eveline Bayley . . . . .	88
	13	Lucretia M. Perry . . . . .	86



DATE.		AGE.
July	14 Elizabeth Burnett . . . . .	89
	17 Lucretia Dow . . . . .	86
	29 Anne M. Littlefield . . . . .	89
	29 James J. Foley (Rev.) . . . . .	35
	31 Mary Harris . . . . .	87
Aug.	3 Jane L. Hawkes . . . . .	86
	4 Richard H. Salter (M.D.) . . . . .	85
	5 Edwin L. Bynner (Lawyer) . . . . .	51
	7 Samuel Bassett . . . . .	88
	9 Emily A. Dimmock . . . . .	86
	9 Margaret Bradley . . . . .	92
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	5 John S. Dwight (Musician) . . . . .	80
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## APPENDIX E.

## INTRODUCTION.

For many reasons it seems desirable to collect in chronological arrangement, the laws relating to marriages and the registration thereof, from the date of the establishment of the Commonwealth.

The history of the marriage laws prior to that date has been admirably set forth by Chief Justice HORACE GRAY of our Supreme Court, in the case of *Commonwealth v. Munson*, decided in Oct., 1879, and reported in 127 Mass. Reports.

With the consent of the Reporter of Decisions, the opinion is given in full.

W. H. W.

OPINION OF THE SUPREME COURT IN THE CASE OF  
COMMONWEALTH v. MUNSON.

GRAY, C. J. In Massachusetts, from very early times, the requisites of a valid marriage have been regulated by statutes of the Colony, Province, and Commonwealth; the canon law was never adopted; and it was never received here as common law, that parties could by their own contract, without the presence of an officiating clergyman or magistrate, take each other as husband and wife, and so marry themselves. *Milford v. Worcester*, 7 Mass. 48, 53. 2 Dane Ab. 291, 301. 2 Winthrop's Hist. New England, 43. This clearly appears on tracing the history of the legislation upon the subject; the whole of which, whether repealed or unrepealed, is by a familiar rule to be considered in ascertaining the intention of the Legislature. *Church v. Crocker*, 3 Mass. 17, 21. *Eaton v. Green*, 22 Pick. 526, 531. *Commonwealth v. Bailey*, 13 Allen, 541, 545.

As early as 1639, it was "ordered and declared" by the General Court, "that there be records kept of the days of every marriage, birth and death of every person within this jurisdiction." 1 Mass. Col. Rec. 276. Anc. Chart. 43. In 1642, it was enacted that "the magistrates and other persons appointed to marry shall yearly deliver to the recorder of that court which is nearest to the place of their habitation the names of such persons as they have married, with the days, months and years of the same; and the said recorders are faithfully and carefully to enrol such marriages as shall thus be committed to their trust;" and in 1644,

every new-married man was required "to bring in a certificate of his marriage, under the hand of that magistrate which married him, to the clerk of the writs," to be recorded. 2 Mass. Col. Rec. 15, 59. Mass. Col. Laws (ed. 1660) 68; (ed. 1672) 130. Anc. Chart. 181.

The requisite of solemnization before a magistrate or other authorized person, as essential to constitute a valid marriage, which had been clearly implied in these statutes, was distinctly expressed in the following statute of 1646: "As the ordinance of marriage is honorable amongst all, so should it be accordingly solemnized. It is therefore ordered by this Court and authority thereof, that no person whatsoever in this jurisdiction shall join any persons together in marriage, but the magistrate, or such other as the General Court or Court of Assistants shall authorize in such place where no magistrate is near. Nor shall any join themselves in marriage, but before some magistrate or person authorized as aforesaid. Nor shall any magistrate, or other person authorized as aforesaid, join any persons together in marriage, or suffer them to join together in marriage in their presence, before the parties to be married have been published according to law." Mass. Col. Laws (ed. 1660) 52; (ed. 1672) 102. Anc. Chart. 152.

In 1656 and 1658, the "commissioners for ending small causes in the several towns where no magistrate dwells" were "authorized and empowered to solemnize marriage between parties legally published;" "and all other commissions in this case are hereby made void." 4 Mass. Col. Rec. pt. i. 255, 322. Anc. Chart. 152. The provision of the St. of 1646, prohibiting persons to join themselves in marriage, except before a magistrate or other authorized person, continued in force throughout the period of the colony charter.

By the Prov. St. of 1692-3 (4 W. & M.) c. 25, "every justice of the peace within the county where he resides, and every settled minister in any town, shall and are hereby respectively empowered and authorized to solemnize marriages, within their respective towns and counties, betwixt persons that may lawfully enter into such a relation, having the consent of those whose immediate care and government they are under, and being likewise first published" as therein directed; and "every justice and minister shall keep a particular register of all marriages solemnized before any of them, and make a return thereof" quarterly to the clerk of the sessions of the peace of the county, to be by him registered. 1 Prov. Laws (State ed.) 61. Anc. Chart. 242.

By the Prov. St. of 1695-6 (7 W. III.) c. 2, § 4, "for the better preventing of clandestine marriages," it is enacted that "no person other than a justice of the peace, and that within his own county only, or ordained minister, and that only in the town where he is settled in the work of the ministry, shall or may presume to join any persons together in marriage; nor shall any justice or minister join any person in marriage other than such one or both of whom are inhabitants or residents in such county or town respectively;" with more specific provisions as to publication of banns and consent of parents and guardians, and a



further provision that any justice, minister or other person offending against this act shall suffer a penalty, and be "forever after disabled to join persons in marriage," and be also liable to an action by the parent or guardian. 1 Prov. Laws, 209, 210. Anc. Chart. 283.

By the Prov. St. of 1716-17 (3 Geo. I.) c. 16, after reciting in the preamble the principal passage above quoted from the act of 1695-6, it is enacted that "the power granted ministers to join persons together in marriage be hereby enlarged, so as that where there shall be no settled ordained minister in any town or precinct, or where the only settled ordained minister of any town or precinct is himself to be married, it shall and may be lawful in such cases for the next settled ordained minister in another town within the same county to join in marriage the minister, or inhabitants of such town or precinct destitute of such settled ordained minister, if such minister or inhabitants desire it, according to the rules prescribed by the laws of this Province for the consummating marriages;" and penalties are imposed on ministers and clerks neglecting to return or record marriages. 2 Prov. Laws, 60. Anc. Chart. 416.

So by an act of 1773 (13 Geo. III.) the authority of each minister of the Church of England within the Province to join persons in marriage, (which had previously been limited to persons belonging to the town in which the minister himself dwelt,) was not only extended to include persons usually worshipping with him and whose ministerial taxes he had a right by law to receive, although not belonging to the same town; but it was enacted that "where any minister of the Church of England is himself to be married, or where such minister shall be removed by death or otherwise, so that the religious society of Christians in which he presided shall be destitute of a minister, it shall be lawful in such cases for the next minister within the Province of the same denomination to join in marriage the minister, or any of the people constituting such religious society who may lawfully enter into such a relation." Mass. Perpetual Laws (Supplts. to ed. 1759) 632. Anc. Chart. 679.

These statutes plainly signify that by the law of the Province even a minister, authorized to solemnize marriages between other persons, could not marry himself.

The only other statutes of the Province which have come to our notice are one of 1727 (1 Geo. II.) providing for the publication of banns of persons residing in places where there was no town clerk, and one of 1763 (3 Geo. III.) concerning the powers of ministers whose parishes were made out of two or more adjacent towns. 2 Prov. Laws, 464. Mass. Perpetual Laws (Supplts. to ed. 1759) 444. Anc. Chart. 462, 655.

The Province laws on this subject remained in force until after our Revolution; and it was before they had been changed by any statute of the Commonwealth that the marriage took place, the validity of which was brought in question in the leading case of *Milford v. Worcester*, 7 Mass. 48. In that case it appeared that in 1784 a man and a woman

went together into a room where a justice of the peace happened to be, and in his presence, and before other witnesses, after producing a certificate that their intentions of marriage had been published, the man declared that he took the woman as his lawful wife, and she declared that she took him as her lawful husband, and each made to the other the vows and promises usual in contracting marriages; but upon the question whether this proceeding was directed and encouraged by the justice the evidence was conflicting. It was ruled by Mr. Justice (afterwards Chief Justice) Sewall at the trial, and held by the full court in an elaborate judgment delivered by Chief Justice Parsons, that, if the proceeding had not the sanction of the justice as a magistrate, the marriage was void, and neither the woman nor her children took the settlement of the man. The position that the marriage, though not solemnized pursuant to the statutes, was yet a lawful marriage, had between parties competent to contract marriage, and not declared void by any statute, was fully argued and considered; and the court, while admitting the strength of that position in states the laws of which had prescribed no regulations for the celebration of marriages, was clearly of opinion that the provisions of our statutes, by necessary implication, prohibited persons from solemnizing their own marriages by any form of mutual engagement, or in the presence of any witnesses whatever.

The St. of 1786, c. 3, manifested no intention to change the law in this respect. While it expressly repealed all former laws relating to the solemnization of marriages, it substantially reënacted many of their provisions. It empowered justices of the peace within their counties, and stated and ordained ministers within their towns or parishes, to solemnize marriages; provided that, when any such minister was himself to be married, it should be lawful for any other such minister within the same county to marry him; required "all persons desiring to be joined in marriage" to have their intention published, and to "produce to the justice or minister who shall be desired to marry them" a certificate of such publishment; obliged justices and ministers to keep records and make returns of the marriages solemnized by them; and made persons illegally solemnizing marriages, or neglecting to make returns, subject to penalties, and to be thereafter disqualified from joining persons in marriage.

It also contained a new provision, declaring marriages which had been or should be had and solemnized among Quakers, or Friends, in the manner and form used and practised in their societies, to be good and valid in law, and requiring the clerk or keeper of the records of the meeting at which such marriages should be had and solemnized to make returns thereof. St. 1786, c. 3, § 7. This section, Chief Justice Parsons tells us, was enacted in consequence of the general opinion of lawyers that such marriages were void before. *Milford v. Worcester*, 7 Mass. 56.

The St. of 1786 (after being amended in some unimportant particulars by the Sts. of 1795, c. 7, 1817, cc. 61, 141, and 1820, c. 55) was repealed



by the St. of 1834, c. 177, which contained similar provisions, but allowed resident ministers to solemnize marriages throughout the Commonwealth, and therefore omitted as unnecessary the specific provision of former statutes as to the marriage of ministers, and also declared — thereby clearly implying that some solemnization beyond the mere contract of the parties was considered essential — that “all marriages, between persons who might lawfully enter into that relation, heretofore solemnized by any justice or minister, be and they hereby are confirmed and made valid in law, although such justice or minister may have exceeded his authority or jurisdiction.”

In the Rev. Sts. c. 75, the provisions of the previous statutes are substantially reënacted, and the following section [§ 24] is added: “No marriage, solemnized before any person professing to be a justice of the peace, or a minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, on account of any want of jurisdiction or authority in such supposed justice or minister, or on account of any omission or informality in the manner of entering the intention of marriage, or in the publication of the banns; provided, that the marriage be in other respects lawful, and be consummated with a full belief, on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.” Rev. Sts. c. 75, § 24.

The object of this section, as declared in the Report of the Commissioners who framed it, was to adopt the principle stated in *Milford v. Worcester*, that a marriage would be lawful, if solemnized before a justice or minister, although without publication of the banns and without the consent of parents or guardians; and to extend that principle so as to prevent marriages from being invalidated on account of some defect, not known or suspected by either party, in the ordination of the minister or the commission of the justice in whose presence the marriage ceremony was performed. That the Commissioners understood the presence of some person, being or believed to be a magistrate or minister, to be necessary to the validity of every marriage of persons other than Quakers in this Commonwealth, clearly appears by their concluding sentence: “The essence of the contract is the assent of the parties; and if this assent is formally and solemnly given in the presence of one who is acting as a justice or minister, and who is honestly believed to be qualified as such, it furnishes all the security against fraud and surprise, which the law was designed to provide for.”

The existing laws upon the subject are mostly contained in the Gen. Sts. c. 106; and the only modification since the Rev. Sts. that is worthy of notice is that by which, where the fact of marriage is required to be proved before any court, evidence of the admission of that fact by the defendant, or of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence, is made competent. Sts. 1840, c. 84; 1841, c. 20. Gen. Sts. c. 106, § 22. Evidence of the kind here mentioned is simply made competent, not controlling when the whole truth appears.

Under all changes in the form of the statutes it has always been assumed in this Commonwealth, and in the State of Maine, which was originally a part thereof, that (except in the single case of Quakers, or Friends, whose marriages are made valid by a special provision limited to that sect, and, though not solemnized by any magistrate or minister, are witnessed, recorded, and returned by the principal officer of the meeting at which the ceremony is performed) a marriage which is shown not to have been solemnized before any third person, acting or believed by either of the parties to be acting as a magistrate or minister, is not lawful or valid for any purpose. *Medway v. Needham*, 16 Mass. 157, 159. *Commonwealth v. Spooner*, 1 Pick. 235. *Meyers v. Pope*, 110 Mass. 314, 316. *Thompson v. Thompson*, 114 Mass. 566, 567. St. 1879, c. 116. *Brunswick v. Litchfield*, 2 Greenl. 28. *Ligonia v. Buxton*, 2 Greenl. 102. *State v. Hodgskins*, 19 Maine, 155. *State v. Bowe*, 61 Maine, 171, 177. See also *Dunbarton v. Franklin*, 19 N.H. 257, 266; *Northfield v. Plymouth*, 20 Vt. 582, 591; *Goshen v. Stonington*, 4 Conn. 209, 219; *Bashaw v. State*, 1 Yerger, 177; *Dennison v. Dennison*, 35 Md. 361.

It is proper, however, to notice more particularly the Massachusetts cases, on which the defendant's counsel relied.

The case decided by the Superior Court of Judicature of the Province in 1758, and cited in Quincy's Reports, 29, note, appears by the record there referred to, to have been as follows: Flora, a negro woman, was indicted on the Prov. St. of 1696 (8 W. III.) c. 11, "to prevent the destroying and murdering of bastard children," which had this preamble: "Whereas many lewd women that have been delivered of bastard children, to avoid their shame and escape punishment, do secretly bury or conceal the death of their children, and after, if the child be found dead, the said women do allege that the said child was born dead, whereas it falleth out sometimes (though hardly it is to be proved) that the said child or children were murdered by the said women their lewd mothers, or by their assent or procurement," and which therefore enacted that any woman who should be delivered of a child "which, if it were born alive, should by law be a bastard," and endeavor to conceal the death thereof, whether it were born alive or not, should suffer death as in case of murder, unless she could prove that the child was born dead. 1 Prov. Laws, 255. Anc. Chart. 293. The indictment alleged, in the usual form of an indictment for murder, that the defendant threw her child alive into a vault and immersed it in the water and excrements therein, and thereby drowned and suffocated it. The jury, by special verdict, found "that the said Flora is and from her nativity has been a negro slave; that she was never married according to any of the forms prescribed by the laws of this land, but that the person supposed to be the father of the said child was also a slave, and had kept her company with her master's consent for above a year and a half before that she was delivered alone of the female child mentioned in the indictment, and thrust the same child into the vault



and under the excrements and water, and that the same child was taken out dead therefrom, and that, by means of her so immersing the said child and concealing the death thereof, it cannot be known whether the said child was born dead or alive;" and the jury found the defendant guilty or not guilty, according to the opinion of the court upon the question whether "the said female child, had it been born alive, would have been a bastard, within the meaning and design of" the statute on which the indictment was founded. "After mature advisement upon the said verdict, the court are of opinion that the said Flora is not guilty." Flora's case, Rec. 1758, fol. 295. We have no report of the grounds of that opinion; but it may well be that the court thought that so highly penal a statute, changing the ordinary rule as to burden of proof in criminal cases, should be strictly construed, and that the case was not within the evil which it was intended to prevent, as expressed in the preamble.

In *Parton v. Hervey*, 1 Gray, 119, it was decided, 1st, that the age of consent in this Commonwealth, as by the common law of England, was fourteen in males and twelve in females; and 2d, that the Prov. St. of 1695-6 (7 W. III.) c. 2, the Sts. of 1786, c. 3, and 1834, c. 177, and the Rev. Sts. c. 75, §§ 15, 19, prohibiting justices and ministers, under a penalty, from solemnizing marriages of males under twenty-one or of females under eighteen, without the consent of their parents or guardians, did not make void the marriage of a girl thirteen years old, solemnized by a justice or minister without such consent. The decision on the first point finds additional and conclusive support in the Prov. St. of 1694-5 (6 W. & M.) c. 5, § 5, which defined the age of consent to be in "the man fourteen years of age, the woman twelve." 1 Prov. Laws, 172. Anc. Chart. 278. 2 Dane Ab. 301. The decision on the second point was in exact accordance with the statement of Chief Justice Parsons in *Milford v. Worcester*, referred to in the Commissioners' Report on the Revised Statutes, as already mentioned, that "when a justice or minister shall solemnize a marriage between parties who may lawfully marry, although without publication of the banns of marriage, and without the consent of the parents or guardians, such marriage would unquestionably be lawful, although the officer would incur the penalty of fifty pounds for a breach of his duty." 7 Mass. 54, 55. The general statement of Mr. Justice Bigelow in the course of his discussion of this point — that, "in the absence of any provision declaring marriages, not celebrated in the prescribed manner, or between parties of certain ages, absolutely void, it is held that all marriages, regularly made according to the common law, are valid and binding, although had in violation of the specific regulations imposed by statute" — evidently had regard to the effect of specific regulations as to the publication of banns or the consent of parents, and not to the broader question, which was not before him, whether any presence of a third person was necessary. If the learned judge had intended to cast any doubt on the adjudication of that question in *Milford v. Worcester*, he

would hardly have referred, as he did, to that case as supporting his statement. 1 Gray, 122.

In *Meyers v. Pope*, 110 Mass. 314, there was evidence that the parties went before a person whom they supposed to be a justice of the peace of the county, with the intent on the part of both to contract marriage before him; that in his presence and hearing the man said that the woman was his wife; and that they afterwards cohabited together, believing themselves to have been then and thereby lawfully married. The extent of the decision, as stated by Chief Justice Chapman, was that the provision of the Rev. Sts. c. 75, § 24, and the Gen. Sts. c. 106, § 20, already quoted, (by which the law as declared in *Milford v. Worcester*, has been so far modified as to make a marriage before a justice or minister, believed by either of the parties to be authorized, as valid as if he were in fact authorized to solemnize the marriage,) should by a liberal construction be held to include a case "where the parties go before a magistrate or minister, make a marriage contract in some form in his presence, in the belief that he sanctions and assents to it in his official capacity, and cohabit as husband and wife afterwards, believing that they are legally married, though the magistrate understands the matter differently, and does not intend to act officially in the matter." 110 Mass. 316.

The presence of a person officiating, or at least believed to be officiating, as a justice or minister being (except in the case of Quakers) clearly required, according to a long course of legislative action and of judicial opinion, to constitute a valid marriage in this Commonwealth, it would be superfluous to examine the English decisions, or the cases cited at the argument showing that a different rule prevails in some other parts of the Union. Whether it is wise and expedient so to change the law of Massachusetts as to allow an act, which so deeply affects the relations and the rights of the contracting parties and their offspring, to become binding in law by the mere private contract of the parties, without going before any one as a magistrate or minister, is a matter for legislative, and not for judicial consideration.

In the case before us, it appearing from the undisputed facts that, in the ceremony performed by the defendant and the woman with whom he has since cohabited, no third person participated or was understood or expected to participate in any way, and no civil magistrate or minister of the gospel, nor any person believed to be such, was present, and neither party was a Friend, or Quaker, it was rightly ruled in the Superior Court that no lawful or valid marriage between the parties had taken place.

But it does not follow that the conviction was warranted by the evidence before the jury. *Milford v. Worcester*, 7 Mass. 57. Sedgwick, J., in *Mangue v. Mangue*, 1 Mass. 240, 242. To support an indictment against a man for adultery, it is sufficient to prove sexual connection between him and the wife of another man. *Commonwealth v. Elwells*, 2 Met. 190. To support an indictment for bigamy or polygamy, it is



sufficient to prove that the defendant, being at the time lawfully married to one person, has married another. *Commonwealth v. Mash*, 7 Met. 472. *Reynolds v. United States*, 98 U.S. 145. But to support this indictment on the Gen. Sts. c. 165, § 6, it is necessary to prove not only that a man and a woman, “not being married to each other,” “cohabited together,” but that they so cohabited “lewdly and lasciviously,” — implying an evil intent, which cannot be inferred from the mere fact (such as was proved at the trial) of cohabitation under an honest, though mistaken, belief that the parties were lawfully married to each other. *Commonwealth v. Hunt*, 4 Cush. 49. If there were evidence that the cohabitation was under such circumstances as to create a common scandal, or tend to corrupt the public morals, the case might be different. See *Commonwealth v. Calef*, 10 Mass. 153; *Grisham v. State*, 2 Yerger, 589; *State v. Moore*, 1 Swan, 136.

*Verdict set aside.*

## LEGISLATION UNDER THE COMMONWEALTH.

### CHAPTER 69 OF ACTS OF 1785.

#### AN ACT FOR REGULATING MARRIAGE AND DIVORCE.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That no man or woman shall intermarry within the degrees hereafter named, that is to say :—*

No man shall marry his Mother, Grandmother, Daughter, Son's Daughter, Daughter's Daughter, Step-Mother, Grandfather's Wife, Son's Wife, Son's Son's Wife, Daughter's Son's Wife, Wife's Mother, Wife's Grandmother, Wife's Daughter, Wife's Son's Daughter, Wife's Daughter's Daughter, Sister, Brother's Daughter, Sister's Daughter, Father's Sister, Mother's Sister.

No woman shall marry her Father, Grandfather, Son, Son's Son, Daughter's Son, Step-Father, Grandmother's Husband, Daughter's Husband, Son's Daughter's Husband, Daughter's Daughter's Husband, Husband's Father, Husband's Grandfather, Husband's Son, Husband's Son's Son, Husband's Daughter's Son, Brother, Brother's Son, Sister's Son, Father's Brother, Mother's Brother.

And if any man or woman shall intermarry within the degrees aforesaid, every such marriage shall be deemed, taken and adjudged incestuous, and shall be null and void; and the issue of all such incestuous marriages shall be deemed, taken and adjudged illegitimate, and be subjected to all the legal disabilities of such issue.

SECT. 2. *And be it further enacted by the authority aforesaid, That all marriages, where either of the parties shall have a former wife or husband living at the time of such marriage, shall be absolutely void, and no dower shall be assigned any widow in consequence of such marriage; and the issue thereof shall be deemed, taken and adjudged illegitimate, and be subject to all the legal disabilities of such issue.*

### CHAPTER 3 OF ACTS OF 1786.

#### AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That every Justice of the Peace, within the county where he resides, and every stated and ordained minister of the gospel in the town, district, parish or plantation, where he resides, shall be and hereby is authorized and empowered to solemnize marriages between persons that may lawfully enter into that relation, when one or both of the persons to be married, belong to, or are residents in the county where such justice resides, or one or both of them are inhabitants of, or residents in the town, district, parish, or plantation where such minister resides.*



SECT. 2. *And be it further enacted by the authority aforesaid,* That when any settled and ordained minister of the gospel is himself to be married, it shall be lawful for any other such minister within the same county, to marry the said minister. And also, when any religious society shall be destitute of a settled and ordained minister of the gospel, in case there shall not be such a minister within the town, district or plantation in which such religious society is, it shall be lawful for any such minister, within the same county, to join any person of such town, district or plantation, in marriage: *Provided* such marriage be solemnized in the town, district or plantation where one of the parties to be married shall reside

SECT. 3. *And be it further enacted by the authority aforesaid,* That all persons desiring to be joined in marriage shall have such their intentions published at three public religious meetings, on different days, at three days' distance exclusively at least from each other, in the town or district, wherein they respectively dwell, or shall have their intentions of marriage posted up by the clerk of such town or district, by the space of fourteen days, in some public place, within the same town or district, fairly written, and shall also produce to the justice or minister, who shall be desired to marry them, a certificate of such publishment, under the hand of the clerk of such town or district respectively; and also, that the intention of marriage hath been entered with him fourteen days, prior to the date of such certificate; and where a male, under twenty one years, or a female under eighteen years of age, is to be married, the consent of the parent, guardian or other person, whose immediate care and government such party is under, if within the Commonwealth, shall be first had to such marriage. And in case the parties or either of them live in a town, district or place where there shall be no clerk, then publishment shall be made in the town or district next adjoining, in manner aforesaid, and a certificate from the clerk of the same town or district, of such publishment, and of the entry of their intentions of marriage as aforesaid, shall be produced as aforesaid, previous to their marriage. *Provided,* That in regard to any plantation in the counties of Cumberland and Lincoln, where the parties, not under the respective ages aforesaid, shall have been inhabitants for the space of twelve months, and shall live twenty miles' distant from such next adjoining town or district, any justice or ordained minister belonging to this Commonwealth, may join them in marriage without such certificate.

SECT. 4. *And be it further enacted by the authority aforesaid,* That if, at any time, the banns of matrimony betwixt any persons shall be forbidden, and the reasons thereof assigned, in writing, by the person so forbidding the same, left with the town or district clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall have been duly inquired into, and determined before two justices of the same county, *quorum unus*: *Provided,* the person forbidding the banns shall, within seven days after filing the reasons as aforesaid, apply unto two justices as aforesaid, and procure their determination thereon; unless the said justices shall certify unto the said clerk, that a further time is necessary for their determination on the reasons filed; in which case the clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the justices shall sooner determine; according to whose determination, the clerk shall govern himself herein; and if the said justices shall determine, that the reasons assigned by the person forbidding the said banns, were not supported by the laws of the Commonwealth, then the person so forbidding shall pay all the cost that may have arisen in consequence of such objection; and the said justices shall make up judgment and issue execution accordingly.

SECT. 5. *And be it further enacted by the authority aforesaid,* That if

any person shall deface or pull down any publishment posted up, in writing, as aforesaid, before the expiration of the said fourteen days, he shall forfeit and pay the sum of twenty shillings, to the use of the town; and if unable to pay the said fine, may be set in the stocks for the space of one hour. And if any Justice of the Peace or minister shall, otherwise than is expressly allowed and authorized by this Act, join any persons in marriage, they shall severally forfeit and pay the sum of fifty pounds, two third parts thereof to and for the use of the county wherein the offence may be committed, and the residue to the prosecutor, to be sued for and recovered in the Court of Common Pleas, within the same county, by the treasurer thereof, who is hereby enjoined, upon due information thereof, to prosecute and sue for the said penalty, without delay, or by the parent, guardian or other person under whose immediate care and government either of the parties were at the time of such marriage; and every justice or minister, against whom such recovery shall be had, is hereby forbidden from joining persons in marriage forever after. And in case a person forbid as aforesaid, or any other person whatever, not authorized and empowered to solemnize marriages by this Act, shall join any persons in marriage, and be convicted thereof in the Supreme Judicial Court, upon presentment or indictment, he shall stand one hour in the pillory, and be subjected to pay a fine, at the discretion of the court, to the use of the Commonwealth, not exceeding one hundred pounds, nor less than eighty pounds.

SECT. 6. *And be it further enacted*, That every justice and minister shall make and keep a particular record of all marriages solemnized before them respectively; and in the month of April, yearly, and every year, shall make a return to the clerk of the town, district or plantation in which he lives, certifying the names (both Christian names and surnames) of all the persons who have been by them respectively joined together in marriage within the year then last past, if any such have been by them so joined together.

[And if it shall so happen, that any one or more of the said justices or ministers shall not have joined together in marriage any persons during the course of the year then last past, it shall be the duty of such justice or minister also to certify to the said town-clerk, in writing, under his hand, that he has not joined any persons in marriage within the course of the said year:] *Repealed 1795, ch. 7.*

And if any justice or minister shall neglect to make such return, within the month of April, annually, the clerk of the town, district or plantation, where such delinquent justice or minister lives, shall, without delay, certify such neglect to the clerk of the Court of General Sessions of the Peace of the same county, who shall lay the same before the said court at their next session; and the person so neglecting shall be cited to appear before the said court, to answer for such neglect; and if no sufficient reason shall be assigned therefor, he shall be considered and adjudged disqualified for joining persons in marriage for a term of time, not exceeding ten years, at the discretion of the justices of the said court. And every town and district clerk shall duly and seasonably record all marriages, so certified to him, as aforesaid:

[And shall also return a list or copy thereof to the clerk of the Court of General Sessions of the Peace of the same county, some time in the month of May, yearly and every year, to be there recorded, upon penalty of forfeiting twenty shillings for each neglect: And it shall be the duty of each clerk of the sessions to prosecute for every such neglect, in the county to which he belongs. And every clerk of the sessions shall record all such returns of marriages at large in a book to be kept for that purpose, and no other, under the same penalty for each neglect.] *Repealed 1795, ch. 41, § 1.*

SECT. 7. *And be it further enacted*, That no person by this Act authorized to marry, shall join in marriage any white person with any negro, indian or mulatto, on penalty of the sum of fifty pounds, two third parts thereof to the use of the county wherein such offence shall



be committed, and the residue to the prosecutor, to be recovered by the treasurer of the same county, in manner as aforesaid; and all such marriages shall be absolutely null and void.

SECT. 8. *And be it further enacted by the authority aforesaid, That any marriages which have been or hereafter may be had and solemnized, among the people called Quakers, or Friends, in the manner and form used and practised in their societies, shall be good and valid in law, anything in this Act to the contrary notwithstanding: And the clerk, or keeper of the records of the meeting wherein such marriage shall be had and solemnized, shall once a year make a certificate, under his hand, of all marriages had and solemnized in the society, or meeting, to which he belongs, and shall deliver the same to the clerk of the Court of General Sessions of the Peace of the county wherein the marriages have been had and solemnized, under the penalty of twenty shillings for each neglect. All fines, not particularly appropriated, shall be to the use of the prosecutor. And all former laws relating to the solemnization of marriages are hereby repealed.*

*This Act to be in force from and after the last day of December, one thousand seven hundred and eighty-six, and not sooner. [June 22, 1786.]*

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## CHAPTER 7 OF ACTS OF 1795.

AN ACT REPEALING A CERTAIN CLAUSE OF AN ACT, ENTITLED, "AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES."

WHEREAS in and by the Act, entitled, as aforesaid, among other things, the following clause is enacted, viz. "And if it shall so happen, that any one or more of the said justices or ministers shall not have joined together in marriage any person during the course of the year then last past, it shall be the duty of such justice or minister also to certify to the said town-clerk, in writing, under his hand, that he has not joined any persons in marriage within the course of the said year;" and a compliance with the said clause is found inconvenient:

*Be it therefore enacted by the Senate and House of Representatives in General Court Assembled, and by the authority of the same, That the before recited clause be and it is hereby repealed. [June 15, 1795.]*

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## CHAPTER 41 OF ACTS OF 1795.

### FEES FOR MARRIAGES.

To the town-clerk for publishing the banns of matrimony, recording the same, giving a certificate of the publishment, and recording the marriage upon receiving the justice's or minister's certificate thereof, fifty cents, to be paid by the man published, on receiving a certificate of the publishment. And the town-clerk shall not in future be holden to return certificates of marriages to the clerks of the Courts of General Sessions of the Peace, nor clerks last mentioned to record the same. To every minister or Justice of the Peace, who shall lawfully solemnize a marriage, and certify the same, one dollar and twenty-five cents. To the town-clerk for recording births and deaths, eight cents each. For a certificate of a birth or death, ten cents. For a subpoena for one or more witnesses, ten cents.

CHAPTER 69 OF ACTS OF 1795.

AN ACT FOR RECORDING BIRTHS AND DEATHS BY THE CLERKS OF TOWNS AND DISTRICTS.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That it shall be the duty of every town-clerk and every district-clerk, within this Commonwealth, to record all births and deaths which shall happen within his town or district and come to his knowledge, together with the time of such birth or death, and the names of his or her parents, if known, for the fees allowed, by law, to be paid by his town or district.

SECT. 2. *And be it further enacted,* That it shall be the duty of parents to give notice to the clerk of the town or district in which they dwell, of all the births and deaths of their children; and it shall be the duty of every householder to give notice of every birth and death which may happen in his house; and of the eldest person next of kin to give such notice of the death of his kindred; and it shall be the duty of the master or keeper of any alms-house, work-house or prison, and of the master or commander of any ship or vessel, to give notice of every birth and death which may happen in the house or vessel under his care or charge, to the clerk of the town or district in which such event shall happen: And in case any person, whose duty it shall be, by virtue of this Act, to give notice as aforesaid, shall neglect to perform the same for the space of six months after the birth or death shall happen, the person so neglecting shall pay a fine of one dollar, to be recovered, with costs of suit, on complaint before any Justice of the Peace for the same county, to the use of any inhabitant of the same town who shall prosecute for the same; from which judgment there shall be no appeal.

SECT. 3. *And be it further enacted,* That this Act shall be in force on and after the first day of September next; and that an Act passed *Anno Domini* one thousand six hundred and ninety-two, for registering births and deaths, shall be and hereby is repealed, on and after that day. [Feb. 26, 1796.]

CHAPTER 61 OF ACTS OF 1817.

AN ACT EXPLANATORY OF AN ACT, ENTITLED, "AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES."

*BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That any marriage which has been, or which shall hereafter be solemnized by any minister or Justice of the Peace, agreeably to the provisions of the Act, entitled, "An Act for the orderly solemnization of Marriages," in any plantation, which at the time of passing said Act was included within the counties of Cumberland or Lincoln, shall be deemed and taken to be legal, to all intents and purposes, as if the said counties, or either of them, had not been divided. And every Justice of the Peace, or minister, who shall hereafter solemnize any such marriage, shall transmit a certificate thereof to the clerk of the Circuit Court of Common Pleas for the county in which said plantation is situated, to be recorded by said clerk, in a book to be by him kept for that purpose. [Jan. 27, 1818.]



## CHAPTER 141 OF ACTS OF 1817.

## AN ACT IN EXPLANATION OF AN ACT, ENTITLED, "AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES."

*BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That all marriages (between persons who may or might lawfully enter into that relation) which have been or may hereafter be solemnized by any stated ordained minister of the gospel, in the town, parish, district, or plantation, within or over which such minister, at the time, was, or may be settled, and where one of the parties resided, or shall reside, shall be, and be considered valid in law, notwithstanding such minister, at the time, shall reside, or may have resided without the limits of the town, district, parish or plantation, within or over which he is, or was so settled. And it shall be sufficient that the certificate of any marriage, so solemnized, shall be lodged with the clerk of the town, district or plantation, within or over which such minister is so settled. [Feb. 20, 1818.]*

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## CHAPTER 55 OF ACTS OF 1820.

## AN ACT IN FURTHER ADDITION TO THE ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That every stated ordained minister of the gospel shall be, and hereby is authorized and empowered to solemnize marriages between persons that may lawfully enter into that relation, when one or both of the persons to be married belong to the parish or congregation of such minister, although such person or persons shall reside without the limits of the town, parish, or district in which such minister may be settled; and such marriages may be solemnized either within the town, parish, or district wherein such minister resides, or wherein such person or persons may reside.*

SECT. 2. *Be it further enacted, That whenever any persons, who may lawfully enter into the marriage relation, shall belong to, or be resident in a town or district, in which there shall be no stated ordained minister of the gospel, of the sect or denomination to which such persons, or either of them belong, it shall be lawful for any settled, ordained minister, of the sect or denomination to which such persons, or either of them belong, residing in any other town or district within this Commonwealth, to solemnize marriage between such persons, within the town or district where they, or either of them reside; the certificate of which marriage shall be filed with the clerk of the town or district where such marriage shall be solemnized; and the duties of ministers and town clerks, in relation to certificates of marriage, solemnized under the provisions of this Act, and the penalties for the neglect thereof, shall be the same as are provided in the Act, entitled "An Act for the orderly solemnization of marriages." [Feb. 12, 1821.]*

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## CHAPTER 177 OF ACTS OF 1834.

## AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That every*

justice of the peace within his jurisdiction, and every minister of the gospel within the Commonwealth, who has been ordained according to the usage of his denomination, and who is resident therein, be, and they hereby are authorized and empowered to solemnize marriages between persons who may lawfully enter into that relation, when either of the persons to be married belongs to, or is resident within the jurisdiction of said justice or minister; but all such marriages shall be solemnized in the city, town, or district in which the person solemnizing the same may reside, or within the city, town, or district in which one or both of the persons to be married may reside.

SECT. 2. *BE it further enacted*, That all persons desiring to be joined in marriage, shall have their intentions of marriage published at three public religious meetings, on different days, at three days' distance at least from each other exclusively, in the city, town or district wherein they respectively dwell, or shall have such their intentions of marriage posted up, by the clerk of such city, town or district wherein they respectively dwell, for the space of fourteen days in some public place, within the same city, town or district, fairly written, and shall also produce to the justice or minister, who may be desired to marry them, a certificate of such publishment under the hand of the clerk of such city, town or district respectively, and also that the intentions of marriage have been entered with him fourteen days prior to the date of such certificate; and when a male under twenty-one years, or a female under eighteen years of age, is to be married, the consent of the parent, guardian or other person under whose immediate care or government such party is, if within the Commonwealth, shall be first had to such marriage. And in case the parties or either of them, live in a town, district, or other place where there shall be no clerk, then publishment shall be made in manner aforesaid, in a city, town or district next adjoining, and the certificate from the clerk of such adjoining city, town or district, of such publishment, and of the entry of their intentions of marriage as aforesaid, previous to their marriage.

SECT. 3. *BE it further enacted*, That if, at any time, the banns of matrimony between any persons shall be forbidden, and the reasons thereof, assigned in writing by the person forbidding the same, be left with the city, town or district clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall have been duly inquired into and determined before two justices of the same county, quorum unus: *provided*, the person forbidding the banns, shall, within seven days after filing the reasons as aforesaid, apply unto two justices as aforesaid, and procure their determination thereon, unless the said justices shall certify unto the said clerk, that a further time is necessary for their determination on the reasons filed; in which case the clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the justices shall sooner determine, according to whose determination the clerk shall govern himself herein; and if the said justices shall determine that the reasons assigned by the person forbidding the said banns were not supported by the laws of the Commonwealth, then the person so forbidding shall pay all the cost that may have arisen in consequence of such objection, and the said justices shall make up judgment, and issue execution accordingly.

SECT. 4. *BE it further enacted*, That if any person shall deface or take down any publishment in writing, posted up as aforesaid, before the expiration of the fourteen days, he shall, upon conviction thereof, forfeit and pay a sum not less than two, or more than twenty dollars, to the use of the person who shall prosecute therefor. And if any justice of the peace, or minister, shall, otherwise than is expressly allowed and authorized by this act, join any persons in marriage, they shall, upon conviction thereof, severally forfeit and pay a sum not less than fifty, nor more than one hundred dollars, one moiety thereof to the use of the



county wherein the offence may be committed, and the other moiety to the use of the person who shall prosecute therefor; and in case any person whatever, not authorized and empowered to solemnize marriages by this act, shall join any persons in marriage, and be convicted thereof in any court of competent jurisdiction, upon presentment or indictment, he shall be imprisoned in the common jail, or confined to hard labor, for a term not exceeding six months, or pay a fine of not less than fifty, nor more than two hundred dollars, to the use of the Commonwealth, at the discretion of said court.

SECT. 5. *BE it further enacted*, That every justice and minister shall make and keep a particular record of all the marriages solemnized before them respectively; and, in the month of April annually, shall make a return to the clerk of the city, town or district in which he resides, of a certificate containing the christian and surnames, and places of residence, of all the persons joined in marriage, by them respectively, within the year then last past, and also the time when, and the name of the city, town or district, in which such marriages were respectively solemnized; and when neither of the persons married belongs to, or is resident in the city, town or district, in which such justice or minister resides, then such justice or minister shall also make a like return of a certificate to the clerk of the city, town, or district in which one or both of the persons married may reside, within thirty days from the solemnization of the same. And any justice or minister who shall neglect to make such returns, shall, upon conviction thereof, before any court of competent jurisdiction, in the county in which he resides, forfeit and pay for each neglect a sum of not less than twenty nor more than one hundred dollars, at the discretion of said court, one moiety thereof to the use of said county, and the other moiety to the use of the person who shall prosecute for the same; and every city, town or district clerk shall duly and reasonably record all marriages so certified to him as aforesaid.

SECT. 6. *BE it further enacted*, That all marriages which have been or may be solemnized among the people called quakers or friends, in the manner and form used and practised in their societies, shall be good and valid in law, anything in this act to the contrary notwithstanding. And the clerk or keeper of the records of the meeting wherein such marriages shall be solemnized, shall, in the month of April, annually, make and deliver to the clerk of the city, town or district in which such society usually meet and worship, a certificate of all marriages solemnized therein, during the year then last past, as in the fifth section of this act is provided, under the penalty of not less than twenty nor more than one hundred dollars for each neglect, to be recovered in the manner and to the uses as in said fifth section is provided.

SECT. 7. *BE it further enacted*, That all marriages between persons who might lawfully enter into that relation, heretofore solemnized by any justice or minister, be and they hereby are confirmed and made valid in law, although such justice or minister may have exceeded his authority or jurisdiction.

SECT. 8. *BE it further enacted*, That "an act for the orderly solemnization of marriages" (except the seventh section thereof,) passed June twenty-second, in the year of our Lord one thousand seven hundred and eighty-six; also "an act repealing a certain clause of an act for the orderly solemnization of marriages," passed June fifteenth, in the year of our Lord one thousand seven hundred and ninety-five; also, "an act explanatory of an act for the orderly solemnization of marriages," passed January twenty-seventh, in the year of our Lord one thousand eight hundred and eighteen; also an act in explanation of an act for the orderly solemnization of marriages, passed February twentieth, in the year of our Lord one thousand eight hundred and eighteen, and also "an act in further addition to the act for the orderly solemnization of marriages," passed February twelfth, in the year of our Lord one

thousand eight hundred and twenty-one, be, and they are hereby repealed: *provided, however*, that all marriages confirmed by, or solemnized in pursuance of the provisions of these acts, be ratified and confirmed.

SECT. 9. *BE it further enacted*, That no minister who has unintentionally violated the laws now in force, for the solemnization of marriages, shall be subjected to any penalty or punished for that cause.

SECT. 10. *BE it further enacted*, That the provisions of this act shall go into operation on the first day of May next. [Approved by the Governor, April 1, 1834.]

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## CHAPTER 15 OF THE REVISED STATUTES OF 1836.

### RECORD OF BIRTHS AND DEATHS. — NOTICE OF BIRTHS AND DEATHS.

SECT. 46. The town clerk shall keep a record of the births and deaths of all persons within his town, and coming to his knowledge; and he shall specify in such record the day of each birth and death, and the names of the parents of such persons, if known.

SECT. 47. Parents shall give notice to the clerk of their town of all the births and deaths of their children; and every householder shall give the like notice of every birth and death happening in his house; and the eldest person next of kin shall give such notice of the death of his kindred; and the keeper of any alms house, work house, house of correction, prison or hospital, and the master or other commanding officer of any ship, shall give the like notice of every birth and death, happening among the persons under his charge; and every person, neglecting to give such notice, for the space of six months, after the birth or death shall have happened, shall forfeit to the use of the town a sum not exceeding five dollars.

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## CHAPTER 75 OF THE REVISED STATUTES OF 1836.

### FOR REGULATING MARRIAGES.

[NOTE. By Chapter 146 it was provided that this revision was to take effect on and after the last day of April, 1836.]

SECTION 1. No man shall marry his mother, grandmother, daughter, granddaughter, step-mother, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, sister, brother's daughter, sister's daughter, father's sister, or mother's sister.

SECT. 2. No woman shall marry her father, grandfather, son, grandson, step-father, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother, brother's son, sister's son, father's brother, or mother's brother.

SECT. 3. In all the cases, mentioned in the two preceding sections, in which the relationship is founded on a marriage, the prohibition shall continue in full force, notwithstanding the dissolution of such marriage by death, or by a divorce, unless the divorce be for a cause, which shows the marriage to have been originally unlawful or void.

SECT. 4. All marriages, contracted whilst either of the parties has a former wife or husband living, shall be void, unless the former



marriage shall have been dissolved for some cause other than the adultery of the person contracting such second marriage.

SECT. 5. No white person shall intermarry with a negro, indian or mulatto; and no insane person or idiot shall be capable of contracting marriage.

SECT. 6. When any persons, resident in this state, shall undertake to contract a marriage, contrary to the preceding provisions of this chapter, and shall, in order to evade those provisions, and with an intention of returning to reside in this state, go into another state or country, and there have their marriage solemnized, and shall afterwards return and reside here, such marriage shall be deemed void in this state.

SECT. 7. All persons, intending to be joined in marriage, shall cause notice of their intention to be entered, fourteen days at least before their marriage, in the office of the clerk of the town in which they may respectively dwell (if within this state); and if there be no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town.

SECT. 8. The intention shall be published by the clerk, with whom the entry is made, either by posting up a written notice thereof, in some public place in the town of which he is the clerk, fourteen days at least before the marriage, or by making a public proclamation thereof, at three public religious meetings in the town, on different days; the said meetings to be not less than three days distant from each other, exclusive of the days of the publication.

SECT. 9. The clerk shall deliver to the parties a certificate, under his hand, specifying the time when notice of the intention of marriage was entered with him, and the time of the publication thereof; which certificate shall be delivered to the magistrate or minister, in whose presence the marriage is to be contracted, before he shall proceed to solemnize the same.

SECT. 10. After the intention of marriage is entered with the clerk, if any person shall forbid the banns, and shall assign his reasons therefor in writing, and leave the same with the clerk, the certificate shall not be issued, until the matter shall have been duly inquired into and determined, in the manner hereinafter mentioned; provided the person forbidding the banns shall apply to two justices of the peace and of the quorum, of the same county, and shall, within seven days after the filing of his reasons, procure their decision thereon, or produce to the clerk their certificate that a further time is necessary for the consideration thereof; in which case, the clerk shall withhold his certificate, until the expiration of such further time, unless the justices shall sooner make known their decision.

SECT. 11. The two justices, so applied to, shall proceed forthwith to give notice thereof to the persons who propose to be married, and after a full hearing of the parties, or of the person objecting to the marriage, if the others do not appear, the justices shall decide on the truth and sufficiency of the reasons assigned for forbidding the banns, and shall certify their decision thereon to the clerk, with whom the intention of marriage was entered.

SECT. 12. If the said two justices shall certify that the objections to the marriage are true and sufficient, the clerk shall not issue any certificate of the publication of the banns; but if they shall certify that the objections are not proved, or are not sufficient, or if they shall not agree in a determination thereupon, the clerk shall forthwith issue his certificate, in the same manner as if no objection had been made thereto.

SECT. 13. If the said justices shall certify that the objections to the marriage are true and sufficient, the persons, who propose to be married, or either of them, may appeal from such decision to the

court of common pleas, or the supreme judicial court, next to be held for the same county, and the determination of the court thereon shall be final in the case; and the clerk of the town shall issue, or withhold, his certificate of the publication of the banns, according to such final determination.

SECT. 14. If the objections, so made to any marriage, shall not be proved, and adjudged to be sufficient, the person making the same shall pay all the costs, that shall have been incurred on account thereof, to be taxed by the justices or the court, as the case may be, and execution therefor shall be issued accordingly.

SECT. 15. When a male, under the age of twenty-one years, or a female, under the age of eighteen years, is to be married, the magistrate or minister shall not proceed to solemnize the marriage, without the consent of the parent or guardian, having the custody of such minor, if there be any in the state competent to act.

SECT. 16. Marriages may be solemnized by any justice of the peace, in the county for which he is appointed, when either of the parties resides in the same county; and they may be solemnized throughout the state by any minister of the gospel, who has been ordained according to the usage of his denomination, and who resides within the state, and continues to preach the gospel and to perform the other functions of his office; but all such marriages shall be solemnized in the town, in which the person solemnizing them may reside, or in which one or both of the persons to be married may reside.

SECT. 17. Every justice and minister shall keep a record of all marriages solemnized before him, and in the month of April, annually, shall make a return, to the clerk of the town in which he resides, of a certificate, containing the christian and surnames, and places of residence, of all the persons who have been by him joined in marriage within the year then last past, and also the time when, and the name of the town in which, such marriages were respectively solemnized; and when neither of the married persons belongs to or is resident in the town in which the justice or minister resides, then such justice or minister shall, within thirty days after such marriage, also return a like certificate to the clerk of the town in which one or both of the married persons may reside; and all marriages so certified to the clerk, shall be forthwith recorded by him in a book to be kept for that purpose.

SECT. 18. Every justice of the peace and minister, who shall neglect to make such returns, shall, upon conviction thereof, forfeit for each neglect a sum, not less than twenty, nor more than one hundred dollars; one moiety thereof to the use of the county in which he resides, and the other moiety to the use of the person who shall prosecute therefor.

SECT. 19. If any justice of the peace or minister shall join any persons in marriage, contrary to the provisions of this chapter, he knowing that the marriage is not duly authorized, he shall, upon conviction thereof, forfeit a sum not less than fifty, nor more than one hundred dollars, one moiety thereof to the use of the county where the offence is committed, and the other moiety to the use of the person who shall prosecute therefor.

SECT. 20. If any person shall undertake to join others in marriage, knowing that he is not lawfully authorized so to do, and shall be thereof convicted, upon indictment in any court of competent jurisdiction, he shall be imprisoned in the common jail, or confined to hard labor, for a term not exceeding six months, or shall pay a fine, not less than fifty, and not more than two hundred dollars.

SECT. 21. If any person shall wilfully deface or take down any written notice of the intention of marriage, posted up as before prescribed, within fourteen days after it is so posted up, he shall, upon



conviction thereof, forfeit a sum not less than two, or more than twenty dollars, to the use of the person who shall prosecute therefor.

SECT. 22. The preceding regulations, so far as they relate to the manner of solemnizing marriages, shall not effect [*affect*] marriages among the people called friends or quakers, but such marriages may be solemnized, in the manner heretofore used and practised in their societies.

SECT. 23. The clerk or keeper of the records of the meeting, wherein any marriages among the said friends or quakers shall be solemnized, shall, in the month of April, annually, make and deliver to the clerk of the town in which such society usually meet and worship, a certificate, like that before prescribed to be returned by justices and ministers, of all marriages solemnized in the said meeting, within the year then last past, under the penalty of not less than twenty, nor more than one hundred dollars, for each neglect; which penalty shall be recovered in the manner, and to the uses, provided in the case of a like neglect by a justice or minister.

SECT. 24. No marriage, solemnized before any person professing to be a justice of the peace, or a minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, on account of any want of jurisdiction or authority in such supposed justice or minister, or on account of any omission or informality in the manner of entering the intention of marriage or in the publication of the banns; provided, that the marriage be in other respects lawful, and be consummated with a full belief, on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.

SECT. 25. The record of a marriage, made and kept as before prescribed, by a justice of the peace or minister, or by the clerk of any town, or a copy of any such record duly certified, shall be received, in all courts and places, as presumptive evidence of the fact of such marriage.

## CHAPTER 122 OF THE REVISED STATUTES OF 1836.

### FEEs FOR MARRIAGES.

SECT. 11. To the town clerk, for publishing the banns of matrimony, recording the same, giving a certificate thereof, and recording the marriage upon receiving the minister's or justice's certificate thereof, fifty cents, to be paid on delivering the certificate of publishing the banns:

To every minister or justice of the peace, who shall lawfully solemnize a marriage, and certify the same, one dollar and twenty-five cents.

### TOWN CLERK'S FEES.

SECT. 12. For recording births and deaths, eight cents each:

For a certificate of a birth or death, ten cents:

For copies of town records, and other documents, furnished to any person at his request, if containing less than one page, ten cents, and if containing more, at the rate of twelve cents a page.

## CHAPTER 84 OF ACTS OF 1840.

### AN ACT RELATING TO THE EVIDENCE OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

Whenever, on hearing of any application for divorce, the fact of mar-

riage is required or offered to be proved, evidence of admission of said fact by the party against whom the process is instituted, or of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence, from which said fact may be inferred, shall be received as competent evidence for consideration, whether the marriage to be proved was contracted in this Commonwealth or elsewhere.

[Approved by the Governor, March 23, 1840.]

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## CHAPTER 20 OF ACTS OF 1841.

### AN ACT IN ADDITION TO AN ACT RELATING TO THE EVIDENCE OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

The provisions of an act relating to the evidence of marriage, passed on the twenty-third day of March, in the year one thousand eight hundred and forty, are hereby extended to all cases where it shall become necessary to prove the fact of marriage, in any hearing before any court in this Commonwealth.

[Approved by the Governor, Feb. 16, 1841.]

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## CHAPTER 95 OF ACTS OF 1842.

### AN ACT RELATING TO THE REGISTRY AND RETURNS OF BIRTHS, MARRIAGES, AND DEATHS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. The clerks of the several towns and cities in the Commonwealth shall, annually, in the month of May, transmit to the secretary of the Commonwealth a certified copy of their record of the births, marriages, and deaths of all persons within their respective towns and cities, which may come to their knowledge; shall state the number of births and marriages, and the number of deaths, with the name, sex, age, (and if an adult male, the occupation,) and the names of the diseases of which all persons have died, or are supposed to have died, together with the cause or causes of the death of all such deceased persons, so far as they may be able to obtain a knowledge of the same from physicians or others; and any clerk who shall neglect to make such return, shall be liable to a penalty of ten dollars, to be recovered for the use of any town or city where such neglect shall be proved to have existed.

SECT. 2. The Secretary of the Commonwealth shall prepare and furnish to the clerks of the several towns and cities in this Commonwealth, blank forms of returns, as hereinbefore specified, and shall accompany the same with such instructions and explanations as may be necessary and useful; and he shall receive said returns, and prepare therefrom such tabular results as will render them of practical utility, and shall make report thereof annually to the legislature, and generally shall do whatever may be required to carry into effect the objects of this act, and of the several provisions of the Revised Statutes not inconsistent with this act.

[Approved by the Governor, March 3, 1842.]



## CHAPTER 5 OF THE ACTS OF 1843.

## AN ACT RELATING TO MARRIAGES BETWEEN INDIVIDUALS OF CERTAIN RACES.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

So much of the fifth section of the seventy-fifth chapter and of the first section of the seventy-sixth chapter of the Revised Statutes, as relates to marriages between white persons and negroes, indians and mulattoes, is hereby repealed.

[*Approved by the Governor Feb. 25, 1843.*]

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## CHAPTER 159 OF ACTS OF 1844.

## AN ACT RELATING TO THE REGISTRY AND RETURNS OF BIRTHS, MARRIAGES, AND DEATHS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. The clerks of the several cities and towns in this Commonwealth shall, annually, in the month of June, transmit to the secretary of the Commonwealth a certified copy of their record of births, marriages, and deaths, which have occurred within their respective cities and towns during the year next preceding the first day of said month.

The births shall be numbered and recorded in the order in which they are received by the clerk. The record of births shall state in separate columns the date of the birth, the place of birth, the name of the child, (if it have any,) the sex of the child, name and surname of one or both of the parents, occupation of the father, residence of the parents, and the time when the record was made.

The marriages shall be numbered and recorded in the order in which they are received by the clerk. The record of marriages shall state in separate columns, the date of the marriage, the place of the marriage, the name, residence, and official station of the person by whom married, the names and surnames of the parties, the residence of each, the age of each, the condition of each, (whether single or widowed,) the occupation, names of the parents, and the time when the record was made.

The deaths shall be numbered and recorded in the order in which they are received by the clerk. The record of deaths shall state in separate columns the date of the death, the name and surname of the deceased, the sex, condition, (whether single or married,) age, occupation, place of death, place of birth, names of the parents, disease or causes of death, and the time when the record was made.

SECT. 2. The school committee of each city or town shall, annually, in the month of May, ascertain from actual inquiry or otherwise, all the births which have happened within such city or town, during the year next preceding the first day of said May, together with the facts concerning births required by the first section of this act, and shall make an accurate return thereof to the clerk of such city or town, on or before the last day of said May ; and the said school committee, or other person authorized by them to make such returns, shall be entitled to receive from the treasury of such city or town, five cents for each and every birth so returned.

SECT. 3. Every justice, minister, and clerk, or keeper of the records of the meeting wherein any marriages among the Friends or Quakers shall be solemnized, shall make a record of each marriage solemnized before him, together with all the facts relating to marriages required by

the first section of this act; and each such justice, minister, clerk, or keeper shall, between the first and tenth days of each month, return a copy of the record for the month next preceding, to the clerk of the city or town in which the marriage was solemnized; and every person as aforesaid, who shall neglect to make the returns required by this section, shall be liable to the penalty provided in the eighteenth section of the seventy-fifth chapter of the Revised Statutes.

SECT. 4. Each sexton or other person, having the charge of any burial ground in this Commonwealth, shall, on or before the tenth day of each month, make returns of all the facts required by the first section of this act, connected with the death of any person whose burial he may have superintended during the month next preceding, to the clerk of the city or town in which such deceased person resided at the time of his death. And such sexton, or other person, shall be entitled to receive from the treasury of the city or town to which the return is made, five cents for the return of each death made agreeably to the provisions of this act.

SECT. 5. The clerk of each city or town shall be entitled to receive from the treasury of such city or town, eight cents for the record of each birth and death: *provided* such clerk shall comply with this act in all respects.

SECT. 6. It shall be the duty of the clerks of the several cities and towns, to make such distribution of blank forms of returns as shall be designated by the secretary of the Commonwealth.

SECT. 7. The secretary of the Commonwealth shall prepare and furnish to the clerks of the several cities and towns in this Commonwealth, blank books of suitable quality and size, to be used as books of record, according to the provisions of this act, and also blank forms of returns, as herein before specified, and shall accompany the same with such instructions and explanations as may be necessary and useful; and he shall receive said returns, and prepare therefrom such tabular results, as will render them of practical utility, and shall make report thereof annually to the legislature, and generally shall do whatever may be required to carry into effect the provisions of this act.

SECT. 8. Any clerk who shall neglect to comply with the requirements of this act, shall be liable to a penalty of ten dollars, to be recovered for the use of any city or town where such neglect shall be proved to have existed.

SECT. 9. An act entitled "an act relating to the registry of births, marriages, and deaths," passed on the third day of March, in the year one thousand eight hundred and forty-two, is hereby repealed.

SECT. 10. This act shall take effect from and after its passage.

[Approved by the Governor, March 16, 1844.]

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## CHAPTER 222 OF ACTS OF 1845.

### AN ACT CONCERNING MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

The validity of any marriage in consequence of the incapacity of either of the parties thereto, to contract the same by reason of insanity or idiocy, shall not be called in question upon the trial of any collateral issue, before any of the courts of this Commonwealth, —but only in a process duly instituted, for the purpose of determining the validity thereof, during the life-time of both the parties thereto.

[Approved by the Governor, March 25, 1845.]



CHAPTER 202 OF ACTS OF 1849.<sup>1</sup>AN ACT RELATING TO THE REGISTRATION OF BIRTHS, MARRIAGES,  
AND DEATHS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Town and city clerks are hereby authorized and required to obtain, record, and index the information concerning births, marriages, and deaths, now required by law. Towns and cities, containing more than ten thousand inhabitants, may choose a person, other than the town or city clerk, to be town or city registrar, to perform this duty instead of the town or city clerk; and said registrar shall take an oath faithfully to perform the duties of the office.

SECT. 2. The fees of the clerk and registrar, for obtaining, recording, and indexing the information required by this act, shall be as follows: For each birth, twenty cents; for each intention of marriage, including the certificate to the parties, fifty cents; for each marriage solemnized, ten cents; for each death, five cents; and the undertaker shall be allowed ten cents for information concerning each death which he returns to the clerk or registrar; said fees for births, deaths, and marriages solemnized, shall be paid by the town; and for intentions of marriage, by the parties having such intentions; *provided however*, that the aggregate compensation, allowed to any clerk or registrar, may be limited by any town or city containing over ten thousand inhabitants, but, in no case, so as to prevent the full execution of this act.

SECT. 3. Any undertaker, or other person, having the superintendence of the burial of any deceased person, who shall neglect or refuse to obtain and return the information required by this act, concerning each person deceased, whose burial shall come under his superintendence, shall be liable to a penalty not exceeding twenty dollars for each neglect, and, if an undertaker, to be deprived of his office. And every clerk or registrar, who wilfully neglects or refuses to perform the duties herein prescribed, shall be liable to a penalty of not less than twenty, nor more than one hundred dollars, for each neglect or refusal. All penalties and forfeitures, under this act, may be recovered by any person who shall sue for the same, one-half thereof to the use of said complainant, and the other half to the use of the town or city in which the forfeiture shall have been incurred.

SECT. 4. The returns required to be made on the first day of February, in the year one thousand eight hundred and fifty, shall include the births, deaths, and marriages, from the first day of May, in the year one thousand eight hundred and forty-eight, to said day of return.

SECT. 5. Copies of records, in the several towns and cities, of the births, marriages, and deaths, which occurred during the next preceding year, ending December thirty-first, shall be returned to the Secretary of State, annually, on or before the first day of February. The blank forms of said returns shall be printed on paper of uniform size; and those for each year, when filled out and returned to the office of the Secretary of State, shall be bound together, in one or more volumes, and shall be furnished with an index. Blank books for indexes to the town registrars, [*sic*] shall be prepared by the Secretary of State, and furnished to the several towns and cities at the expense of the Commonwealth.

SECT. 6. All parts of acts inconsistent with the provisions of this act are hereby repealed.

[Approved by the Governor, May 2, 1849.]

<sup>1</sup> Chapter 197 of Acts of 1846 relates to "Marriage and Divorce" but does not refer to the recording of marriages, nor the issuing of marriage licenses. — W. H. W.

CHAPTER 121 OF ACTS OF 1850.

AN ACT RELATING TO BANNS OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. All persons intending to be joined in marriage shall cause notice of their intention to be entered before their marriage, in the office of the clerk, registrar, or other officer appointed for such purpose, of the city or town in which they may respectively dwell, (if within the state;) and if there be no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town.

SECT. 2. The clerk shall deliver to the parties a certificate under his hand, specifying the time when notice of the intention of marriage was entered with him, which certificate shall be delivered to the minister or magistrate, in whose presence the marriage is to be contracted, before he shall proceed to solemnize the same.

SECT. 3. Whenever parties living in this Commonwealth shall go out of it for the purpose of having a marriage solemnized between them in another state, and a marriage shall be so solemnized, and they shall return to dwell here, they are hereby required to file a certificate or declaration of their marriage, including the facts concerning marriages now required by law, with the clerk or registrar of the town or city where either of them lived at the time, within seven days after their return, under a penalty of ten dollars, to be recovered in the manner and to the uses specified in the third section of the "act relating to the registration of births, marriages, and deaths," passed on the second day of May, in the year eighteen hundred and forty-nine.

SECT. 4. The fee of the clerk or registrar, for making the record of such marriage, shall be fifty cents, to be paid by the said parties.

SECT. 5. So much of the seventy-fifth chapter of the Revised Statutes as is inconsistent with this act, is hereby repealed; *provided*, nevertheless, that nothing herein contained shall be so construed as to modify or alter the provisions of the twenty-second section of the said seventy-fifth chapter, which relates to marriages among the people called Friends or Quakers, but the same shall remain in full force.

[Approved by the Governor, March 28, 1850.]

CHAPTER 335 OF ACTS OF 1853.

AN ACT IN ADDITION TO AN ACT RELATING TO BANNS OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. No clerk or registrar of any city or town shall issue any certificate of intention of marriage to any male person under the age of twenty-one years, or to any female person under the age of eighteen years, except it be upon the application of the parent, master, or guardian of such person, or with their consent in writing expressed, under a penalty not exceeding one hundred dollars, to be recovered by indictment, to the use of the commonwealth, in any court proper to try the same: *provided*, that if there be no parent, master, or guardian, in the state, competent to act, a certificate may be issued without the application or written consent aforesaid.

SECT. 2. The clerk or registrar of every city or town may require of any person who shall apply for a certificate of intention of marriage,



an affidavit, sworn to before some justice of the peace for the county where such application is made, setting forth his or her age, and for the purposes of this act, such affidavit shall be proof of the age of the person to whom such a certificate shall be given.

[Approved by the Governor, May 12, 1853.]

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#### CHAPTER 366 OF ACTS OF 1855.

##### AN ACT RELATING TO THE REGISTRATION OF BIRTHS, MARRIAGES, AND DEATHS, IN THE STATE ALMSHOUSES.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

The superintendents of the state almshouses located at Monson, Tewksbury, and Bridgewater, are hereby authorized and required to make record of all the births and deaths which occur in the institutions under their care, and make returns of the same to the secretary of state, annually, as all town and city clerks are required to do by the act to which this is an act in addition ; and the town clerks of Monson, Tewksbury, and Bridgewater are hereby exempted from all duties herein required of the superintendents of the above named institutions.

[Approved by the Governor, May 17, 1855.]

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#### CHAPTER 34 OF ACTS OF 1857.

##### AN ACT IN ADDITION TO AN ACT RELATING TO BANNS OF MARRIAGE.

*Be it enacted, &c., as follows :*

If any person, applying to any clerk or registrar of any city or town for a certificate of intention of marriage, shall wilfully practise any deception, by making any false statement in relation to the age or residence of either of the parties intending marriage, or in relation to the parent, master, or guardian of either of the said parties, such person shall be subject to a penalty of not more than two hundred dollars, to be recovered by indictment, to the use of the Commonwealth, in any court competent to try the same.

[Approved March 28, 1857.]

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#### CHAPTER 195 OF ACTS OF 1860.

##### AN ACT CONCERNING FRAUDULENT NOTICES OF BIRTHS, MARRIAGES, AND DEATHS.

*Be it enacted, &c., as follows :*

Any person who shall wilfully send to the publishers of any newspaper, for the purpose of publication, a fraudulent notice of the birth of a child, or of the marriage of any parties, or of the death of any person, shall, upon conviction thereof, be punished by a fine not exceeding one hundred dollars.

[Approved April 4, 1860.]

## GENERAL STATUTES,

*To take effect June 1, 1860.*

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## CHAPTER 21.

## OF THE REGISTRY AND RETURNS OF BIRTHS, MARRIAGES, AND DEATHS.

SECTION 1. The clerk of each city and town shall receive or obtain, and record and index, the following facts concerning the births, marriages, and deaths, therein, separately numbering and recording the same in the order in which he receives them, designating in separate columns;

In the record of births, the date of the birth, the place of birth, the name of the child, (if it have any,) the sex and color of the child, the names and the places of birth of the parents, the occupation of the father, the residence of the parents, and the date of the record;

In the record of marriages, the date of the marriage, the place of marriage, the name, residence, and official station of the person by whom married, the names and the places of birth of the parties, the residence of each, the age and color of each, the condition of each, (whether single or widowed,) the occupation, the names of the parents, and the date of the record;

In the record of deaths, the date of the death, the name of the deceased, the sex, the color, the condition, (whether single, widowed, or married,) the age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of the parents, the disease or cause of death, the place of burial, and the date of the record.

SECT. 2. Parents shall give notice to the clerk of their city or town of the births and deaths of their children; every householder shall give like notice of every birth and death happening in his house; the eldest person next of kin shall give such notice of the death of his kindred; the keeper of a workhouse, house of correction, prison, hospital, or almshouse, except the state almshouses at Tewksbury, Bridgewater, and Monson, and the master or other commanding officer of any ship shall give like notice of every birth and death happening among the persons under his charge. Whoever neglects to give such notice for the space of six months after a birth or death, shall forfeit a sum not exceeding five dollars.

SECT. 3. Any physician having attended a person during his last illness, shall, when requested within fifteen days after the decease of such person, forthwith furnish for registration a certificate of the duration of the last sickness, the disease of which the person died, and the date of his decease, as nearly as he can state the same. If any physician refuses or neglects to make such certificate, he shall forfeit and pay the sum of ten dollars to the use of the town in which he resides.

SECT. 4. Every sexton, undertaker, or other person having charge of a burial-ground, or the superintendent of burials having charge of the obsequies or funeral rites preliminary to the interment of a human body, shall forthwith obtain and return to the clerk of the city or town in which the deceased resided or the death occurred, the facts required by this chapter to be recorded by said officer concerning the deceased, and the person making such return shall receive from his city or town the fee of ten cents therefor.



The clerk, upon recording such facts, shall forthwith give to the person making such return, a certificate that such return has been made, which certificate such person shall deliver to the person having charge of the interment, if other than himself, before the burial when practicable, otherwise within seven days thereafter. When a burial takes place and no certificate is delivered as aforesaid, the sexton, undertaker, or other person having charge of the interment, shall forthwith give notice thereof to the clerk under penalty of twenty dollars.

SECT. 5. The clerk of each city and town shall annually on or before the first day of February, transmit to the secretary of the commonwealth, certified copies of the records of the births, marriages, and deaths, which have occurred therein during the year ending on the last day of the preceding December.

SECT. 6. The record of the town clerk relative to any birth, marriage, or death, shall be prima facie evidence, in legal proceedings, of the facts recorded. The certificate signed by the town clerk for the time being shall be admissible as evidence of any such record.

SECT. 7. The clerk shall receive from his city or town for obtaining, recording, indexing, and returning to the secretary of the commonwealth, the facts in relation to a birth, twenty cents; a marriage, ten cents; a death, twenty cents for each of the first twenty entries, and ten cents for each subsequent entry, as the same shall be certified by the secretary of the commonwealth; but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to their clerk. He shall forfeit a sum not less than twenty nor more than one hundred dollars for each refusal or neglect to perform any duty required of him by this chapter.

SECT. 8. The superintendents of the state almshouses at Tewksbury, Bridgewater, and Monson, shall obtain, record, and make return of, the facts in relation to the births and deaths which occur in their respective institutions, in like manner as is required of town clerks. The clerks of said towns shall, in relation to the births and deaths of persons in said almshouses, be exempt from the duties otherwise required of them by this chapter.

SECT. 9. The secretary shall at the expense of the commonwealth prepare and furnish to the clerks of the several cities and towns, and to the superintendents of the state almshouses, blank books of suitable quality and size to be used as books of record under this chapter, blank books for indexes thereto, and blank forms for returns, on paper of uniform size; and shall accompany the same with such instructions and explanations as may be necessary and useful. City and town clerks shall make such distribution of blank forms of returns furnished by the secretary as he shall direct.

SECT. 10. The secretary shall cause the returns received by him for each year to be bound together in one or more volumes with indexes thereto. He shall prepare from the returns such tabular results as will render them of practical utility, make report thereof annually to the legislature, and do all other acts necessary to carry into effect the provisions of this chapter.

SECT. 11. Any city or town containing more than ten thousand inhabitants, may choose a person other than the clerk to be registrar, who shall be sworn, and to whom all the provisions of this chapter concerning clerks shall apply. The returns and notices required to be made and given to clerks shall be made and given to such registrar under like penalties.

SECT. 12. The secretary of this commonwealth shall prosecute, by an action of tort, in the name of the commonwealth, for the recovery of any penalty or forfeiture imposed by this [chapter] [*act*].

SECT. 13. Any city or town may make rules and regulations to enforce the provisions of this chapter, or to secure a more perfect registration of births, marriages, and deaths, therein.

GENERAL STATUTES OF 1860, CHAPTER 29.

KEEPING AND CUSTODY OF RECORDS.

SECT. 9. Registers of deeds, registers of courts, and the registers and clerks of courts, cities, and towns, shall keep all records and documents belonging to their offices in their sole custody, and shall in no case, except upon summons in due form of law, or when the temporary removal of records and documents in their custody is necessary or convenient for the transaction of the business of the courts or the performance of the duties of their respective offices, cause or permit any record or document to be removed or taken away.

SECT. 10. Under the direction of the officers having the custody of the county, city, and town records and files, the same shall be open for public inspection and examination, and any person may take copies thereof. And the several clerks and registers shall, on payment of a reasonable fee therefor, compare and certify, in the manner herein mentioned, all transcripts properly and correctly made for any county, city, or town, in pursuance of the provisions of this chapter.

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GENERAL STATUTES OF 1860, CHAPTER 106.

OF MARRIAGE.

SECTION 1. No man shall marry his mother, grandmother, daughter, granddaughter, step-mother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, or mother's sister.

SECT. 2. No woman shall marry her father, grandfather, son, grandson, step-father, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, or mother's brother.

SECT. 3. In all cases mentioned in the two preceding sections in which the relationship is founded on marriage, the prohibition shall continue notwithstanding the dissolution of such marriage by death or divorce, unless the divorce is for a cause which shows the marriage to have been originally unlawful or void.

SECT. 4. All marriages contracted while either of the parties has a former wife or husband living, except as is provided in chapter one hundred and seven, shall be void.

SECT. 5. No insane person or idiot shall be capable of contracting marriage.

SECT. 6. When persons resident in this state, in order to evade the preceding provisions and with an intention of returning to reside in this state, go into another state or country and there have their marriage solemnized, and afterwards return and reside here, the marriage shall be deemed void in this state.

SECT. 7. Persons intending to be joined in marriage shall before their marriage cause notice thereof to be entered in the office of the clerk or registrar of the city or town in which they respectively dwell, if within the state. If there is no such clerk or registrar in the place of their residence, the entry shall be made in an adjoining city or town.

SECT. 8. The clerk or registrar shall deliver to the parties a certificate under his hand, specifying the time when notice of the intention of marriage was entered with him, together with all facts in relation to the



marriage required by law to be ascertained and recorded, except those respecting the person by whom the marriage is to be solemnized. Such certificate shall be delivered to the minister or magistrate in whose presence the marriage is to be contracted, before he proceeds to solemnize the same.

SECT. 9. If a clerk or registrar issues such certificate to a male under the age of twenty-one years, or a female under the age of eighteen years, having reasonable cause to suppose the person to be under such age, except upon the application or consent in writing of the parent, master, or guardian, of such person, he shall forfeit a sum not exceeding one hundred dollars; but if there is no parent, master, or guardian, in this state competent to act, a certificate may be issued without such application or consent.

SECT. 10. The clerk or registrar may require of any person applying for such certificate, an affidavit sworn to before a justice of the peace for the county where the application is made, setting forth the age of the parties; which affidavit shall be sufficient proof of age to authorize the issuing of the certificate.

SECT. 11. Whoever applying for such certificate wilfully makes a false statement in relation to the age or residence, parent, master, or guardian, of either of the parties intending marriage, shall forfeit a sum not exceeding two hundred dollars.

SECT. 12. When a marriage is solemnized in another state between parties living in this state, and they return to dwell here, they shall within seven days after their return file with the clerk or registrar of the city or town where either of them lived at the time, a certificate or declaration of their marriage, including the facts concerning marriages required by law, and for every neglect they shall forfeit ten dollars.

SECT. 13. No magistrate or minister shall solemnize a marriage, having reasonable cause to suppose either of the parties to be under the age mentioned in section nine, without the consent of the parent or guardian having the custody of the minor, if there is any in the state competent to act.

SECT. 14. Marriages may be solemnized by a justice of the peace in the county for which he is appointed, when either of the parties resides in the same county; and throughout the state by any minister of the gospel ordained according to the usage of his denomination, who resides within the state and continues to perform the functions of his office; but all marriages shall be solemnized in the city or town in which the person solemnizing them resides, or in which one or both of the persons to be married reside.

SECT. 15. Marriages among the people called Friends or Quakers may be solemnized in the manner heretofore used and practised in their societies.

SECT. 16. Every justice of the peace, minister, and clerk, or keeper of the records of the meeting wherein any marriages among the Friends or Quakers are solemnized, shall make a record of each marriage solemnized before him, together with all facts relating to the marriage required by law to be recorded. He shall also between the first and tenth days of each month return a copy of the record for the month next preceding, to the clerk or registrar of the city or town in which the marriage was solemnized, and shall, when neither of the parties to a marriage resides in the city or town in which the marriage is solemnized, return a copy of the record of such marriage to the clerk or registrar of the city or town in which one or both of said parties reside. All marriages so returned shall be recorded by the clerk or registrar.

SECT. 17. Every person neglecting to make the returns required by the preceding section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

SECT. 18. A justice of the peace or minister who joins persons in

marriage contrary to the provisions of this chapter, knowing that the marriage is not duly authorized, shall forfeit not less than fifty nor more than one hundred dollars.

SECT. 19. Whoever undertakes to join persons in marriage knowing that he is not authorized so to do, shall be imprisoned in the jail or confined to hard labor for a term not exceeding six months, or pay a fine of not less than fifty nor more than two hundred dollars.

SECT. 20. No marriage solemnized before a person professing to be a justice of the peace or minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, by want of jurisdiction or authority in such person, or by an omission or informality in the manner of entering the intention of marriage, if the marriage is in other respects lawful, and is consummated with a full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

SECT. 21. The record of a marriage, made and kept as prescribed by law by the person before whom the marriage is solemnized, or by the clerk or registrar of any city or town, or a copy of such record duly certified, shall be received in all courts and places as presumptive evidence of such marriage.

SECT. 22. When the fact of marriage is required or offered to be proved before any court, evidence of the admission of such fact by the party against whom the process is instituted, or of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which the fact may be inferred, shall be competent.

SECT. 23. Marriages solemnized in a foreign country by a consul or diplomatic agent of the United States, shall be valid in this state; and a copy of the record of a certificate from such consul or agent shall be presumptive evidence of such marriage.

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## GENERAL STATUTES OF 1860, CHAPTER 157.

### TOWN CLERKS.

SECT. 9. For entering notice of an intention of marriage and issuing the certificate thereof, and for entering the certificate of marriage filed by persons married out of the state, fifty cents, to be paid by the parties:

For a certificate of a birth or death, ten cents:

For copies of town records and other documents furnished to any person at his request, if containing less than one page, ten cents, and if more, at the rate of twelve cents a page.

### MINISTERS, ETC., FOR MARRIAGES.

SECT. 10. For lawfully solemnizing and certifying a marriage by a minister or justice of the peace, one dollar and twenty-five cents.

SECT. 15. The word "page" when used as the measure of computation, shall mean two hundred and twenty-four words.

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## CHAPTER 96 OF ACTS OF 1865.

### AN ACT RELATING TO THE REGISTRY AND RETURN OF BIRTHS.

*Be it enacted, etc., as follows:*

SECTION 1. It shall be the duty of every physician and midwife in the several cities and towns in this Commonwealth, on or before the tenth day of each month, to forward to the clerk of each city and town



a correct list of the births of all children born therein during the month next preceding, at which such physician or midwife was present; stating therein, as nearly as practicable, the place and date of each birth, the name, sex, and color of the child, the names, places of birth, and residence of the parents, and the occupation of the father.

SECT. 2. For every certificate of a birth, the physician or midwife shall receive twenty-five cents from such city or town; and any physician or midwife neglecting to forward such list for six months after it is due, shall forfeit a sum not exceeding five dollars, to be recovered as provided in the twelfth section of the twenty-first chapter of the General Statutes.

SECT. 3. This act shall take effect upon its passage.

*Approved March 24, 1865.*

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## CHAPTER 138 OF ACTS OF 1866.

### AN ACT CONCERNING THE REGISTRY AND RETURN OF MARRIAGES, BIRTHS AND DEATHS.

*Be it enacted, etc., as follows:*

SECTION 1. The clerk of each city and town, except in such cities and towns as choose a registrar, under the eleventh section of the twenty-first chapter of the General Statutes, in which cases the provisions of this act shall apply to the registrar, for receiving or obtaining, recording, indexing and returning the facts relating to marriages, births and deaths occurring therein, shall be entitled to receive therefrom the sums following, viz.: for each marriage, fifteen cents; for each birth, thirty cents; for each death returned to him by the persons specified in sections two, three and four of chapter twenty-one of the General Statutes, twenty cents for each of the first twenty entries, and ten cents for each subsequent entry; for each death not so returned, but by him obtained and recorded, twenty cents.

SECT. 2. Chapter ninety-six of the acts of the year eighteen hundred and sixty-five, and so much of section seven of the twenty-first chapter of the General Statutes as is inconsistent herewith, are hereby repealed.

SECT. 3. This act shall take effect upon its passage.

*Approved April 7, 1866.*

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## CHAPTER 58 OF ACTS OF 1867.

### AN ACT RELATING TO THE MARRIAGE OF NON-RESIDENT PARTIES.

*Be it enacted, etc., as follows:*

SECTION 1. Persons living without the Commonwealth and intending to be joined in marriage within the Commonwealth, shall, before their marriage, cause notice of their intention to be entered in the office of the clerk or registrar of the city or town in which they propose to have the marriage solemnized; and no marriage between such parties shall be solemnized until they shall have delivered to the justice of the peace, or minister, in whose presence the marriage is to be contracted, a certificate from such clerk or registrar, specifying the time when notice of the intention of marriage was entered with him, together with all the facts in relation to the marriage required by law to be ascertained and recorded, except those respecting the person by whom the marriage is to be solemnized.

SECT. 2. Marriages may be solemnized by a justice of the peace in the county for which he is appointed.

SECT. 3. A justice of the peace or minister who joins persons in marriage contrary to the provisions of this act shall forfeit not less than fifty nor more than one hundred dollars.

*Approved March 11, 1867.*

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CHAPTER 248 OF ACTS OF 1867.

AN ACT IN RELATION TO MARRIAGE CONTRACTS.

*Be it enacted, etc., as follows:*

SECTION 1. No marriage contract heretofore made between parties, both of whom are now living, or which may be hereafter made, shall be invalid as between the parties thereto and their heirs and personal representatives by reason of the failure to record the same as required by section twenty-eight of chapter one hundred and eight of the General Statutes.

SECT. 2. This act shall take effect upon its passage.

*Approved May 18, 1867.*

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CHAPTER 145 OF ACTS OF 1873.

AN ACT FIXING THE FEES OF CLERKS AND REGISTRARS FOR THE REGISTRY AND RETURN OF BIRTHS.

*Be it enacted, etc., as follows:*

SECTION 1. The clerk or registrar of a city or town shall receive the sum of fifty cents for receiving or obtaining, recording, indexing and returning the facts relating to each birth; but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to their clerk or registrar.

SECT. 2. This act shall take effect upon its passage.

*Approved April 2, 1873.*

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CHAPTER 202 OF ACTS OF 1873.

AN ACT RELATING TO THE FEES OF SEXTONS AND OTHERS.

*Be it enacted, etc., as follows:*

SECTION 1. Section four of chapter twenty-one of the General Statutes is amended by striking out the word "ten" after the words "fee of," and inserting instead thereof the word "twenty-five."

SECT. 2. This act shall take effect upon its passage.

*Approved April 16, 1873.*

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CHAPTER 341 OF ACTS OF 1873.

AN ACT CONCERNING FEES OF TOWN CLERKS FOR OBTAINING AND RECORDING THE FACTS RELATING TO DEATHS.

*Be it enacted, etc., as follows:*

Chapter one hundred and thirty-eight of the acts of the year eighteen hundred and sixty-six is amended by striking out the words "twenty cents" at the close of section one, and substituting therefor the words "thirty-five cents."

*Approved June 6, 1873.*



## CHAPTER 21 OF ACTS OF 1875.

AN ACT TO AMEND SECTION FIVE OF CHAPTER TWENTY-ONE OF THE GENERAL STATUTES, IN RELATION TO THE REGISTRY AND RETURNS OF BIRTHS, MARRIAGES AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. Section five of chapter twenty-one, of the General Statutes, is hereby amended by striking out the word "February" in the second line of said section and inserting in place thereof the word "March."

SECT. 2. This act shall take effect upon its passage.

*Approved February 19, 1875.*

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## CHAPTER 174 OF ACTS OF 1878.

AN ACT TO PROVIDE FOR THE MORE ACCURATE REGISTRATION OF VITAL STATISTICS.

*Be it enacted, etc., as follows :*

SECTION 1. No human body shall be buried, or removed from any city or town, until a proper certificate has been given by the clerk or local registrar of statistics to the undertaker or sexton, or person performing the burial, or removing the body. This certificate shall state that the facts required by chapter twenty-one of the General Statutes have been returned and recorded; and no clerk or local registrar shall give such certificate or burial permit until the certificate of the cause of death has been obtained from the physician, if any, in attendance at the last sickness of the deceased, and placed in the hands of said clerk or local registrar: *provided*, that in those cities and towns where local boards of health have been established, the certificate of the cause of death shall be approved by such board before a permit to bury is given by the registrar or clerk. Upon application, the chairman of the local board of health or any physician employed by any city or town for such purpose, shall sign the certificate of the cause of death to the best of his knowledge and belief, if there has been no physician in attendance. He shall also sign such certificate, upon application, in case of death by dangerous contagious disease, or in any other event when the certificate of the attending physician cannot for good and sufficient reasons be early enough obtained. In case of death by violence, the medical examiner attending shall furnish the requisite medical certificate. Any person violating the provisions of this section shall be punished by a fine not exceeding twenty-five dollars.

SECT. 2. This act shall take effect on the first day of May in the year eighteen hundred and seventy-eight; and all acts and parts of acts inconsistent herewith are hereby repealed.

*Approved April 23, 1878.*

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## CHAPTER 7 OF ACTS AND RESOLVES OF 1879.

RESOLVE RELATING TO THE TRANSFER OF CERTAIN RECORD OF MARRIAGES FOR THE COUNTY OF SUFFOLK FROM THE YEAR SEVENTEEN HUNDRED AND SIXTEEN TO THE YEAR SEVENTEEN HUNDRED AND THIRTY-ONE.

*Resolved.* That the clerk of the supreme judicial court for the county

of Suffolk transfer to the city registrar of the city of Boston, the volume containing the record of marriages in Suffolk county from the year seventeen hundred and sixteen to the year seventeen hundred and thirty-one, inclusive.

*Approved February 19, 1879.*

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CHAPTER 116 OF ACTS OF 1879.

AN ACT IN RELATION TO RETURNS OF MARRIAGES.

*Be it enacted, etc., as follows :*

SECTION 1. Every justice of the peace, minister, and clerk, or keeper of the records of the meeting wherein any marriages among the Friends or Quakers are solemnized, shall make a record of each marriage solemnized before him, together with all facts relating to the marriage required by law to be recorded. He shall also between the first and tenth days of each month return a copy of the record for the month next preceding, to the clerk or registrar of the city or town in which the marriage was solemnized, and shall, when one or both of the parties to a marriage resides in a city or town other than that in which the marriage is solemnized, return a copy of the record of such marriage to the clerk or registrar of the city or town in which either party resides, and to both cities or towns when the parties reside in different places. All marriages so returned shall be recorded by the clerk or registrar.

SECT. 2. Every person neglecting to make the returns required by the preceding section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

SECT. 3. Sections sixteen and seventeen of chapter one hundred and six of the General Statutes are hereby repealed.

*Approved March 13, 1879.*

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CHAPTER 33 OF ACTS OF 1880.

AN ACT TO COMPEL A MORE ACCURATE REGISTRATION OF BIRTHS.

*Be it enacted, etc., as follows :*

SECTION 1. It shall be the duty of every physician and midwife in the several cities and towns in this Commonwealth, excepting Boston, to report on or before the fifth day of each month to the clerk of each city and town a correct list of births of all children born therein during the month next preceding at which such physician or midwife was present, stating therein the place, date of each birth, and parents' names.

SECT. 2. Town and city clerks shall give public notice that they are prepared to furnish the necessary blanks to all physicians and midwives applying therefor.

SECT. 3. Any physician or midwife neglecting to report such list for ten days after it is due shall for each offence forfeit a sum not exceeding twenty dollars.

SECT. 4. This act shall take effect upon its passage.

*Approved February 26, 1880.*



## CHAPTER 11 OF ACTS OF 1881.

## AN ACT CONCERNING MARRIAGES IN THE SOCIETY OF FRIENDS.

*Be it enacted, etc., as follows :*

SECTION 1. Section sixteen of chapter one hundred and six of the General Statutes is hereby amended by inserting after the word "him," in the fourth line, the words "or in the said meeting."

SECT. 2. Section twenty of said chapter is hereby amended by inserting after the word "gospel," in the second line, the words "or in the Society of Friends according to its usages," and by inserting after the word "person," in the fourth line, the words "or Society of Friends."

SECT. 3. This act shall take effect upon its passage.

*Approved February 9, 1881.*

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## CHAPTER 32 OF THE PUBLIC STATUTES.

[Enacted November 19, 1881, to take effect February 1, 1882.]

## RECORDS OF BIRTHS, MARRIAGES AND DEATHS.

SECTION 1. The clerk of each city and town shall receive or obtain and record and index, the following facts concerning the births, marriages, and deaths therein, separately numbering and recording the same in the order in which he receives them, designating in separate columns as follows :

In the record of births, the date of birth, the place of birth, the name of the child, (if it has any,) the sex and color of the child, the names and the places of birth of the parents, the occupation of the father, the residence of the parents, and the date of the record ;

In the record of marriages, the date of the marriage, the place of marriage, the name, residence, and official station of the person by whom married, the names and the places of birth of the parties, the residence of each, the age and color of each, the condition of each, (whether single or widowed,) the occupation, the names of the parents, and the date of the record.

In the record of deaths, the date of the death, the name of the deceased, the sex, the color, the condition, (whether single, widowed, or married,) the age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of the parents, the disease or cause of death, the place of burial, and the date of the record.

SECT. 2. Parents shall give notice to the clerk of their city or town of the births and deaths of their children ; every householder shall give like notice of every birth and death happening in his house ; the eldest person next of kin shall give such notice of the death of his kindred ; the keeper of a workhouse, house of correction, prison, hospital, or almshouse, except the state almshouse, and the master or other commanding officer of a ship, shall give like notice of every birth and death happening among the persons under his charge. Whoever neglects to give such notice for the space of six months after a birth or death shall forfeit a sum not exceeding five dollars.

SECT. 3. A physician who has attended a person during his last illness shall, when requested within fifteen days after the decease of such person, forthwith furnish for registration a certificate of the duration of the last sickness, the disease of which the person died, and the date of his decease, as nearly as he can state the same. If a physician refuses

or neglects to make such certificate, he shall forfeit ten dollars to the use of the town in which he resides.

SECT. 4. Every sexton, undertaker, or other person having charge of a burial-ground, and every undertaker or superintendent of burials having charge of the funeral rites preliminary to the interment of a human body, shall forthwith obtain and return to the clerk of the city or town in which the deceased resided, or the death occurred, the facts required by this chapter to be recorded by said officer concerning the deceased, and the person making such return shall receive from his city or town the fee of twenty-five cents therefor.

SECT. 5. No human body shall be buried or removed from any city or town until a proper certificate has been given by the clerk or registrar to the undertaker, sexton, or other person performing the burial or removing the body. Such certificate shall state that the facts required by this chapter have been returned and recorded; and no clerk or registrar shall give such certificate or burial permit until the certificate of the cause of death has been obtained from the physician, if any, in attendance at the last sickness of the deceased, and placed in the hands of said clerk or registrar; and in cities and towns where there are boards of health, the certificate of the cause of death shall also be approved by such board before a permit to bury is given by the registrar or clerk. Upon application, the chairman of the board of health, or any physician employed by any city or town for such purpose, shall sign the certificate of the cause of death to the best of his knowledge and belief, if there has been no physician in attendance. He shall also sign such certificate, upon application, in case of death by dangerous contagious disease, or in any other event when the certificate of the attending physician cannot for good and sufficient reasons be early enough obtained. In case of death by violence, the medical examiner attending shall furnish the requisite medical certificate. Any person violating the provisions of this section shall be punished by fine not exceeding twenty-five dollars.

SECT. 6. The boards of health of towns and the mayor and aldermen of cities shall, on or before the first day of July in each year, license a suitable number of undertakers to take charge of the funeral rites preliminary to the interment of a human body.

SECT. 7. Physicians and midwives shall on or before the fifth day of each month report to the clerk of each city and town, except Boston, a correct list of all children born therein during the month next preceding at the birth of which they were present, stating the place and date of each birth, and the parents' names.

SECT. 8. The clerk of each city and town shall give public notice that he is prepared to furnish, to all physicians and midwives applying therefor, blanks for returns under the preceding section.

SECT. 9. Any physician or midwife neglecting to report such list for ten days after it is due shall for each offence forfeit a sum not exceeding twenty dollars.

SECT. 10. The clerk of each city and town shall annually, on or before the first day of March, transmit to the secretary of the commonwealth certified copies of the records of the births, marriages, and deaths which have occurred therein during the year ending on the last day of the preceding December.

SECT. 11. The record of the town clerk relative to a birth, marriage, or death, shall be prima facie evidence, in legal proceedings, of the facts recorded. A certificate, signed by the town clerk for the time being, shall be admissible as evidence of such record.

SECT. 12. The clerk of each city and town, (except in such cities and towns as choose a registrar, in which cases the provisions of this section shall apply to the registrar,) for receiving or obtaining, recording, indexing, and returning the facts relating to marriages,



births, and deaths occurring therein, shall be entitled to receive from the city or town for each marriage, fifteen cents; for each birth, fifty cents; for each death returned to him by the persons specified in sections two, three, and four, twenty cents for each of the first twenty entries, and ten cents for each subsequent entry; for each death not so returned, but by him obtained and recorded, thirty-five cents, as the same shall be certified by the secretary of the commonwealth; but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to their clerk or registrar. He shall forfeit not less than twenty nor more than one hundred dollars for each refusal or neglect to perform any duty required of him by sections one, two, three, four, ten, twelve, fourteen, sixteen, and eighteen.

SECT. 13. The superintendent of the state almshouse shall obtain, record, and make return of the facts in relation to the births and deaths which occur in his institution, in like manner as is required of town clerks. The clerk of a town in which such almshouse is located shall, in relation to the births and deaths of persons in said almshouse, be exempt from the duties otherwise required of him by this chapter.

SECT. 14. The secretary shall at the expense of the commonwealth prepare and furnish to the clerks of the several cities and towns, and to the superintendent of the state almshouse, blank books of suitable quality and size to be used as books of record under this chapter, blank books for indexes thereto, and blank forms for returns, on paper of uniform size; and shall accompany the same with such instructions and explanations as may be necessary and useful. City and town clerks shall make such distribution of blank forms of returns furnished by the secretary as he shall direct.

SECT. 15. The secretary shall cause the returns received by him for each year to be bound together in one or more volumes with indexes thereto. He shall prepare from the returns such tabular results as will render them of practical utility, make report thereof annually to the general court, and do all other acts necessary to carry into effect the provisions of this chapter.

SECT. 16. A city or town containing more than ten thousand inhabitants may choose a person other than the clerk to be registrar, who shall be sworn, and to whom all the provisions of this chapter concerning clerks shall apply. The returns and notices required to be made and given to clerks shall be made and given to such registrar under like penalties.

SECT. 17. The secretary of the commonwealth shall prosecute, by an action of tort in the name of the commonwealth, for the recovery of any penalty or forfeiture imposed by sections two, three, twelve, sixteen, and eighteen.

SECT. 18. A city or town may make rules and regulations to enforce the provisions of this chapter, or to secure a more perfect registration of births, marriages, and deaths therein.

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## CHAPTER 37 OF THE PUBLIC STATUTES.

### OF THE PUBLIC RECORDS.

SECT. 5. A city or town may cause to be carefully copied such of its records as relates to grants of land, — and also any records of births and marriages kept by such city or town or by a parish within the same.

SECT. 12. Registers of deeds and the registers and clerks of courts, cities, and towns shall keep all records and documents belonging to their respective offices in their sole custody, and shall in no case, except upon summons in due form of law or when the temporary removal of

records and documents in their custody is necessary or convenient for the transaction of the business of the courts or the performance of the duties of their respective offices, cause or permit any record or document to be removed therefrom.

SECT. 13. Under the direction of the officers having the custody of any county, city, or town records or files, all such records and files shall be open for public inspection and examination, and any person may take copies thereof. And the several clerks and registers shall, on payment of a reasonable fee therefor, compare and certify all copies properly and correctly made in pursuance of the provisions of this chapter.

## CHAPTER 145 OF THE PUBLIC STATUTES.

### OF MARRIAGE.

#### CERTAIN MARRIAGES PROHIBITED.

SECTION 1. No man shall marry his mother, grandmother, daughter, granddaughter, step-mother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, or mother's sister.

SECT. 2. No woman shall marry her father, grandfather, son, grandson, step-father, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, or mother's brother.

SECT. 3. In all cases in which the relationship mentioned in the two preceding sections is founded on marriage, the prohibition shall continue notwithstanding the dissolution by death or divorce of the marriage on which such relationship is founded, unless the divorce is for a cause which shows such marriage to have been originally unlawful or void.

SECT. 4. All marriages contracted while either of the parties has a former wife or husband living, except as is provided in chapter one hundred and forty-six, shall be void.

SECT. 5. No insane person or idiot shall be capable of contracting marriage.

SECT. 6. No magistrate or minister shall solemnize a marriage, when he has reasonable cause to suppose the male to be under the age of twenty-one years or the female to be under the age of eighteen years, except with the consent of the parent or guardian having the custody of the minor, if there is any such parent or guardian in the commonwealth competent to act.

SECT. 7. Every marriage solemnized within this commonwealth, which is prohibited on account of consanguinity or affinity between the parties, or on account of either of them having a former wife or husband living, or when either party was insane or an idiot, shall be void without a decree of divorce or other legal process.

SECT. 8. Every marriage solemnized when either party was under the age of consent shall be similarly void, if the parties separate during such nonage, and do not afterwards cohabit.

SECT. 9. The validity of a marriage shall not be questioned in the trial of a collateral issue on account of the insanity or idiocy of either party, but such question shall only be raised in a process instituted to test such validity in the lifetime of both parties.

SECT. 10. When persons resident in this commonwealth, in order to evade any of the provisions of the first five sections of this chapter, and with an intention of returning to reside in this commonwealth, go into another state or country and there have their marriage solemn-



nized, and afterwards return and reside here, the marriage shall be deemed void in this commonwealth.

SECT. 11. When the validity of a marriage is doubted, either party may file a libel for annulling such marriage, or, when the validity of a marriage is denied or doubted by either party, the other party may file a libel for affirming the same. Such libel shall be filed in the same manner as a libel for divorce, and all the provisions of chapter one hundred and forty-six relative to libels for divorce, and section twenty-four of said chapter, relative to the powers of the court in relation thereto, shall, so far as applicable, apply to libels under this section. Upon proof of the nullity or validity of the marriage, it shall be declared void, or affirmed by a decree of the court, and such decree of nullity may be made notwithstanding the marriage was solemnized out of the commonwealth, if the libellant had his domicile in the commonwealth when the marriage was solemnized and also when the libel was filed, and such decree affirming a marriage shall be conclusive upon all persons concerned.

#### LEGITIMACY, CARE, ETC., OF ISSUE OF VOID MARRIAGES.

SECT. 12. The issue of a marriage declared void on account of consanguinity or affinity between the parties shall be deemed to be illegitimate.

SECT. 13. The issue of a marriage declared void on account of the nonage, insanity, or idiocy of either party shall be deemed to be the legitimate issue of the parent who was capable of contracting the marriage.

SECT. 14. When a marriage is declared void on account of a prior marriage of either party, and it appears that the second marriage was contracted in good faith and with the full belief of the parties that the former husband or wife was dead, that fact shall be stated in the decree, and the issue of the second marriage, born or begotten before the commencement of the suit, shall be deemed to be the legitimate issue of the parent capable of contracting the marriage.

SECT. 15. Upon or after a decree of nullity the court shall have similar power to make orders concerning the care, custody, and maintenance of the minor children of the parties as upon a decree of divorce.

#### NOTICE OF INTENTION OF MARRIAGE.

SECT. 16. Persons intending to be joined in marriage in this commonwealth shall before their marriage cause notice of their intention to be entered in the office of the clerk or registrar of the city or town in which they respectively dwell, or, if they do not dwell within the commonwealth, in the office of the clerk or registrar of the city or town in which they propose to have the marriage solemnized. If there is no such clerk or registrar in the place of their residence, the entry shall be made in an adjoining city or town.

SECT. 17. The clerk or registrar shall deliver to the parties a certificate under his hand, specifying the time when notice of the intention of marriage was entered with him, together with all facts in relation to the marriage which are required by law to be ascertained and recorded, except those respecting the person by whom the marriage is to be solemnized. Such certificate shall be delivered to the minister or magistrate before whom the marriage is to be contracted, before he proceeds to solemnize the same.

SECT. 18. If a clerk or registrar issues such certificate to a male under the age of twenty-one years, or to a female under the age of eighteen years, when he has reasonable cause to suppose the person to be under such age, except upon the application or consent in writing of the parent, master, or guardian of such person, he shall forfeit a

sum not exceeding one hundred dollars; but if there is no parent, master, or guardian in this commonwealth competent to act, a certificate may be issued without such application or consent.

SECT. 19. The clerk or registrar may require of any person applying for such certificate an affidavit setting forth the age of the parties; which affidavit shall be sworn to before a justice of the peace, and shall be sufficient proof of age to authorize the issuing of the certificate.

SECT. 20. Whoever, when applying for such a certificate, wilfully makes a false statement in relation to the age, residence, parent, master, or guardian of either of the parties intending marriage, shall forfeit a sum not exceeding two hundred dollars.

SECT. 21. When a marriage is solemnized in another state between parties living in this commonwealth, and they return to dwell here, they shall within seven days after their return file with the clerk or registrar of the city or town where either of them lived at the time a certificate or declaration of their marriage, including the facts concerning marriages required by law; and for every neglect so to do they shall forfeit ten dollars.

BY WHOM AND HOW MARRIAGE MAY BE SOLEMNIZED.

SECT. 22. A marriage may be solemnized by a justice of the peace or by a minister of the gospel, ordained according to the usage of his denomination, who resides in the commonwealth and continues to perform the functions of his office; but every marriage shall be solemnized in the city or town in which the person solemnizing it resides, or in which one or both of the persons to be married reside.

SECT. 23. A marriage among the people called Friends or Quakers may be solemnized in the manner heretofore used and practised in their societies.

SECT. 24. Every justice of the peace, minister, and clerk or keeper of the records of a meeting wherein marriages among Friends or Quakers are solemnized shall make a record of each marriage solemnized before him, or in such meeting, and of all facts relating to the marriage which are required by law to be recorded. He shall also, between the first and tenth days of each month, return a copy of all such records for the month next preceding to the clerk or registrar of the city or town in which the marriage was solemnized, and shall, when one or both of the parties to the marriage resided in a city or town other than that in which the marriage was solemnized, return a copy of the record of such marriage to the clerk or registrar of the city or town in which either party resided, and to the clerks or registrars of both cities or towns when the parties resided in different places. All marriages so returned shall be recorded by the clerk or registrar, and every person neglecting to make the returns required by this section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

SECT. 25. A justice of the peace or minister who joins persons in marriage contrary to the provisions of this chapter, knowing that the marriage is not duly authorized, shall forfeit not less than fifty nor more than one hundred dollars.

SECT. 26. Whoever undertakes to join persons in marriage, knowing that he is not authorized so to do, shall be imprisoned in the jail for a term not exceeding six months, or pay a fine of not less than fifty nor more than two hundred dollars.

SECT. 27. No marriage solemnized before a person professing to be a justice of the peace or a minister of the gospel, or solemnized in the society of Friends according to the usages of said society, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected by want of jurisdiction or authority in such person or society, or by an omission or by informality in the manner of enter-



ing the intention of marriage, if the marriage is in other respects lawful, and is consummated with a full belief on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.

SECT. 28. Marriages solemnized in a foreign country by a consul or diplomatic agent of the United States shall be valid in this commonwealth.

#### EVIDENCE OF MARRIAGE.

SECT. 29. The record of a marriage, made and kept as prescribed by law by the person before whom the marriage has been solemnized, or by the clerk or registrar of a city or town, or a copy of such record duly certified, shall be received in all courts and places as presumptive evidence of such marriage.

SECT. 30. When a marriage has been solemnized by a consul or diplomatic agent of the United States, a copy of the record or a certificate from such consul or agent shall be presumptive evidence of such marriage.

SECT. 31. When the fact of marriage is required or offered to be proved before a court, evidence of the admission of such fact by the party against whom the process is instituted, or evidence of general repute or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which the fact may be inferred, shall be competent.

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### CHAPTER 199 OF THE PUBLIC STATUTES.

#### TOWN CLERKS.

SECT. 16. The fees of town clerks shall be as follows:

For entering notice of an intention of marriage and issuing the certificate thereof, and for entering the certificate of marriage filed by persons married out of the state, fifty cents, to be paid by the parties.

For a certificate of a birth or death, ten cents.

#### MINISTERS, ETC., FOR MARRIAGES.

SECT. 17. For lawfully solemnizing and certifying a marriage, a minister or justice of the peace shall be entitled to receive one dollar and twenty-five cents.

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### CHAPTER 207 OF THE PUBLIC STATUTES.

#### FRAUDULENT NOTICES.

SECT. 68. Whoever wilfully sends to the publisher of a newspaper, for the purpose of publication, a false notice of a birth, marriage, or death, shall be punished by fine not exceeding one hundred dollars.

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### CHAPTER 124 OF ACTS OF 1883.

#### AN ACT RELATING TO THE REMOVAL AND TRANSPORTATION OF CERTAIN BODIES FOR BURIAL.

*Be it enacted, etc., as follows:*

SECTION 1. Section five of chapter thirty-two of the Public Statutes, relating to the burial or removal of bodies for burial, is amended by inserting in the eleventh line thereof, after the word "bury," the words "or remove."

SECT. 2. No railroad corporation, or other common carrier or person, shall convey or cause to be conveyed, through or from any city or town in this Commonwealth, the remains of any person who has died of small-pox, scarlet fever, diphtheria, or typhoid fever, until such body has been so encased and prepared as to preclude any danger of communicating the disease to others by its transportation; and no local registrar or clerk shall give a permit for the removal of such body until he has received from the board of health of the city, or the selectmen of the town where the death occurred, a certificate, stating the cause of death, and that said body has been prepared in the manner set forth in this section, which certificate shall be delivered to the agent or person who receives the body.

SECT. 3. This act shall take effect upon its passage.

*Approved April 11, 1883.*

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## CHAPTER 158 OF ACTS OF 1883.

### AN ACT IN RELATION TO THE RETURNS OF BIRTHS BY PHYSICIANS AND MIDWIVES.

*Be it enacted, etc., as follows :*

SECTION 1. Section seven of chapter thirty-two of the Public Statutes is amended so as to read as follows: "Sect. 7. Physicians and midwives shall on or before the fifth day of each month report to the clerk of each city or town, except Boston, a correct list of all children born therein during the month next preceding, at whose birth they were present, stating the date and place of each birth, the name of the child (if it has any), the sex and color of the child, the name, place of birth and residence of the parents, and the occupation of the father. The fee of the physician or midwife shall be twenty-five cents for each birth so reported and shall be paid by the city or town in which the report is made."

SECT. 2. This act shall take effect upon its passage.

*Approved May 3, 1883.*

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## CHAPTER 36 OF ACTS OF 1886.

### AN ACT TO AMEND SECTION ELEVEN OF CHAPTER ONE HUNDRED AND FORTY-FIVE OF THE PUBLIC STATUTES RELATING TO MARRIAGE.

*Be it enacted, etc., as follows :*

SECTION 1. Section eleven of chapter one hundred and forty-five of the Public Statutes is hereby amended, by inserting in the fourteenth line of said section after the word "filed," the following words: — or has resided in this Commonwealth for five years next preceding the filing of said libel, unless it appears that said libellant has removed into this Commonwealth for the purpose of obtaining said decree.

SECT. 2. This act shall take effect upon its passage.

*Approved March 2, 1886.*

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## CHAPTER 202 OF ACTS OF 1887.

### AN ACT IN RELATION TO THE RETURN AND RECORD OF BIRTHS, MARRIAGES AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. Section five of chapter thirty-seven of the Public Stat-



utes is hereby amended by inserting the word: — deaths, — after the word “births” in the fourth line thereof, so that the same shall read: — also any records of births, deaths and marriages kept by such city or town or by a parish within the same.

SECT. 2. Section four of chapter thirty-two of the Public Statutes is hereby amended by adding at the end thereof the words: — all such returns shall be preserved by said clerk or registrar, and filed, arranged and indexed conveniently for examination and reference.

SECT. 3. Section twenty-four of chapter one hundred and forty-five is hereby amended by adding at the end thereof the words: — all such returns shall be preserved by said clerk or register, and filed, arranged and indexed conveniently for examination and reference.

SECT. 4. The provisions of sections two and three of this act shall apply to all returns of marriages and deaths now in the offices of town and city clerks and city registrars.

SECT. 5. Section one of chapter thirty-two of the Public Statutes is hereby amended by inserting after the word “burial” in the twentieth line of said section the words: — if the deceased was a married woman the name of her husband.

SECT. 6. This act shall take effect upon its passage.

*Approved April 20, 1887.*

## CHAPTER 63 OF ACTS OF 1888.

AN ACT TO AMEND SECTION THREE OF CHAPTER THIRTY-TWO OF THE PUBLIC STATUTES RELATING TO THE FURNISHING, BY PHYSICIANS, OF CERTIFICATES OF DEATH.

*Be it enacted, etc., as follows:*

SECTION 1. Section three of chapter thirty-two of the Public Statutes is hereby amended by striking out after the words “when requested” in the second line thereof, the words “within fifteen days after the decease of such person.”

SECT. 2. This act shall take effect upon its passage.

*Approved February 27, 1888.*

## CHAPTER 306 OF ACTS OF 1888.

AN ACT RELATING TO THE CERTIFICATES AND REGISTRY OF DEATHS, AND THE BURIAL AND REMOVAL OF BODIES OF DECEASED PERSONS.

*Be it enacted, etc., as follows:*

SECTION 1. Section three of chapter thirty-two of the Public Statutes, requiring attending physicians to furnish for registration certain facts relating to deceased persons, is amended so as to read as follows: — *Section 3.* A physician who has attended a person during his last illness shall, when requested, forthwith furnish for registration, a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died, the duration of his last sickness, and the date of his decease. If a physician neglects or refuses to make a certificate as aforesaid, he shall be punished by a fine not exceeding fifty dollars.

SECT. 2. Section five of said chapter, prohibiting the burial or removal of a human body until a proper certificate is furnished, is amended so as to read as follows:

*Section 5.* No undertaker, sexton or other person shall bury in a city or town or remove therefrom the

body of a deceased person until he has received a permit so to do from the board of health or its duly appointed agent, or, if there is no board of health in such city or town, from the city or town clerk. No such permit shall be issued until there has been delivered to such board, or agent or clerk, as the case may be, a satisfactory written statement containing the facts required by this chapter to be returned and recorded, together with the certificate of the attending physician, if any, as required by section three of this chapter, or in lieu thereof a certificate as hereinafter provided. If there is no attending physician, or if the certificate of the attending physician can not be obtained, for good and sufficient reasons, early enough for the purpose, the chairman of the board of health or any physician employed by a city or town for the purpose shall, upon request of said board, agent or clerk, make such certificate as is required of the attending physician; and in case of death by violence the medical examiner shall, if requested, make the same. When such satisfactory statement and certificate are delivered to the board of health or to its agent, the board or agent shall forthwith countersign and transmit the same to the clerk or registrar for registration. The person to whom the permit is so given shall thereafter furnish for registration any other information as to the deceased or to the manner and cause of the death, as the clerk or registrar may require. Any person violating any of the provisions of this section shall be punished by a fine not exceeding fifty dollars.

*Approved May 4, 1888.*

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## CHAPTER 208 OF THE ACTS OF 1889.

### AN ACT IN RELATION TO THE RETURNS OF BIRTHS AND DEATHS.

*Be it enacted, etc., as follows:*

SECTION 1. The clerk or registrar of each city and town shall on the first day of each month make a certified copy of the record of all deaths and births recorded in the books of said city or town during the previous month, whenever the deceased person or the parents of the child born, were resident in any other city or town in this Commonwealth at the time of said death or birth; and shall transmit said certified copies to the clerk or registrar of the city or town in which such deceased person or parents were resident at the time of said death or birth, stating in addition the name of the street and number of the house, if any, where such deceased person or parents so resided, whenever the same can be ascertained; and the clerk or registrar so receiving such certified copies shall record the same in the books kept for recording deaths or births. Such certified copies shall be made upon blanks to be furnished for that purpose by the secretary of the Commonwealth.

SECT. 2. This act shall take effect upon its passage.

*Approved April 5, 1889.*

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## CHAPTER 288 OF ACTS OF 1889.

### AN ACT IN RELATION TO THE RETURNS OF BIRTHS BY PHYSICIANS AND MIDWIVES.

*Be it enacted, etc., as follows:*

Section seven of chapter thirty-two of the Public Statutes, as amended by chapter one hundred and fifty-eight of the acts of the year eighteen hundred and eighty-three, is hereby further amended by striking out in



the second and third lines of said section the words "except Boston", so as to read as follows:

*Section 7.* Physicians and midwives shall, on or before the fifth day of each month, report to the clerk of each city or town a correct list of all children born therein during the month next preceding, at whose birth they were present, stating the date and place of each birth, the name of the child (if it has any), the sex and color of the child, the name, place of birth, and residence of the parents, and the occupation of the father. The fee of the physician or midwife shall be twenty-five cents for each birth so reported and shall be paid by the city or town in which the report is made.

*Approved April 26, 1889.*

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## CHAPTER 402 OF ACTS OF 1890.

### AN ACT IN RELATION TO THE RETURN AND RECORD OF DEATHS.

*Be it enacted, etc., as follows:*

SECTION 1. The last clause of section one of chapter thirty-two of the Public Statutes, as amended by section five of chapter two hundred and two of the acts of the year eighteen hundred and eighty-seven, is hereby further amended so that said clause shall read as follows:— In the record of deaths, the date of the death, the name of the deceased, the sex, the color, the condition, (whether single, widowed or married), the age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of parents, the disease or cause of death, the place of burial, if the deceased was a married woman her maiden name, and the name of her husband, and the maiden name of the mother of any deceased person, and the date of the record.

SECT. 2. This act shall take effect upon its passage.

*Approved June 11, 1890.*

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## CHAPTER 300 OF ACTS OF 1892.

### AN ACT RELATING TO THE RECORD AND RETURN OF MARRIAGES.

*Be it enacted, etc., as follows:*

Section twenty-four of chapter one hundred and forty-five of the Public Statutes is hereby amended by inserting in the third line of said section, after the word "make," the words:— and keep, — by striking out, in the fifth line, the words "by law," by inserting after the word "recorded," in said fifth line, the words:— by section one of chapter thirty-two of the Public Statutes, — by striking out the word "each," in the sixth line of said section, and inserting in place thereof the word:— the, — by striking out all after the word "month," in said sixth line, to and including the word "solemnized," in the tenth line, and inserting in place thereof the following words:—following each marriage solemnized by him, return each certificate issued under the provisions of sections sixteen and seventeen of this chapter, to the clerk or registrar who issued the same; and if the marriage was solemnized in a city or town other than the place or places in which the parties to the marriage resided, — by striking out, in the eleventh line, the words "of the record of such marriage", and inserting in place thereof the following words:— of the certificate, or of either certificate in case two were issued, — by striking out all after the word "town", in the twelfth line, to and including "places", in the fourteenth line, and inserting in place thereof the following words:— in which the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the place and date of marriage, and shall be attested by the signature

of the person who solemnized the same, with his official station and residence added thereto, — by striking out the word “marriages”, in said fourteenth line, and inserting in place thereof the words: — certificates or copies, — by inserting after the word “registrar”, in the fifteenth line, the words: — receiving the same, — and by inserting after the word “the”, in said fifteenth line, the words: — record and, — so as to read as follows:

*Section 24.* Every justice of the peace, minister, and clerk or keeper of the records of a meeting wherein marriages among Friends or Quakers are solemnized shall make and keep a record of each marriage solemnized before him, or in such meeting, and of all facts relating to the marriage which are required to be recorded by section one of chapter thirty-two of the Public Statutes. He shall also, between the first and tenth days of the month following each marriage solemnized by him, return each certificate issued under the provisions of sections sixteen and seventeen of this chapter, to the clerk or registrar who issued the same; and if the marriage was solemnized in a city or town other than the place or places in which the parties to the marriage resided, return a copy of the certificate, or of either certificate in case two were issued, to the clerk or registrar of the city or town in which the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the place and date of marriage, and shall be attested by the signature of the person who solemnized the same, with his official station and residence added thereto. All certificates or copies so returned shall be recorded by the clerk or registrar receiving the same, and every person neglecting to make the record and returns required by this section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

*Approved May 17, 1892.*

## CHAPTER 305 OF ACTS OF 1892.

### AN ACT CONCERNING RECORDS OF BIRTHS, DEATHS AND MARRIAGES.

*Be it enacted, etc., as follows:*

**SECTION 1.** Whenever the records of any city or town do not contain the facts relating to a birth, death or marriage which occurred therein, or whenever such facts are not fully or correctly stated on such records, the clerk or registrar of such city or town may receive a deposition, under oath, containing such facts as are desired for record, and shall then file said deposition and record said facts in a book to be kept for that purpose, stating in addition thereto the name and residence of the deponent and the date of such record. The clerk or registrar shall keep such book separate and apart from the official records of his office, and may certify to the facts contained therein; *provided, however,* that such certificate shall state in addition to all the facts so recorded that the certificate is issued in accordance with the provisions of this act.

**SECT. 2.** A clerk or registrar shall not alter or amend the record of any former clerk or registrar, nor any record made while he is in office, except to correct a clerical error made by himself or some person under his direction. Whenever it is deemed expedient to make a new copy of any earlier records, each page shall be verified and signed by the clerk or registrar, and such record while preserved in proper custody shall have the same force and effect as the original record.

**SECT. 3.** Any person who shall make a false return in regard to any birth or death shall be liable to a fine not exceeding fifty dollars.

*Approved May 17, 1892.*



## CHAPTER 314 OF ACTS OF 1892.

## AN ACT CONCERNING THE CITY REGISTRAR OF THE CITY OF BOSTON.

*Be it enacted, etc., as follows :*

SECTION 1. The mayor of the city of Boston shall appoint, subject to confirmation by the board of aldermen of said city, a city registrar, who shall have charge of the registry department of said city and shall have all the powers and perform all the duties appertaining to registrars of cities provided for in section sixteen of chapter thirty-two of the Public Statutes ; and said city may from time to time assign to said city registrar any other duties. Chapter two hundred and sixty-six of the acts of the year eighteen hundred and eighty-five and chapter four hundred and eighteen of the acts of the year eighteen hundred and ninety, and all other acts relating to departments of the city of Boston and officers in charge thereof, shall apply to said registry department and to said city registrar.

SECT. 2. The said city registrar shall, from his subordinates, appoint two assistant city registrars, who may, in the absence of the city registrar, perform his duties ; and the certificates or attestations of either assistant city registrar shall have the same force and effect as that of the city registrar ; said city registrar may pay, out of any funds received by him, the fees due to persons making returns under the requirements of law, and shall on or before the twentieth of each month transmit the accounts and vouchers for all funds so received and fees so paid to the city auditor.

SECT. 3. The duties imposed upon the clerks of cities or towns under sections fourteen and fifteen of chapter thirty-seven of the Public Statutes shall in Boston be performed by the city registrar.

SECT. 4. Said city may from time to time, by ordinance, direct the head of any department, including the city clerk, to place in charge of the city registrar any of the books or papers of such department bearing date prior to the year eighteen hundred and seventy-five, and may in like manner direct their return.

SECT. 5. In the city of Boston the penalties or forfeitures established by section seventeen of chapter thirty-two of the Public Statutes, or by acts supplementary thereto, shall be recovered on complaint, in the same manner as penalties for breaches of the ordinances of said city, and all fines paid on such complaints shall enure to said city for such uses as it may direct.

*Approved May 19, 1892.*

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## CHAPTER 263 OF ACTS OF 1893.

AN ACT RELATING TO CERTIFICATES AND REGISTRATION OF DEATHS  
AND TO THE BURIAL AND REMOVAL OF HUMAN BODIES.

*Be it enacted, etc., as follows :*

SECTION 1. Section three of chapter thirty-two of the Public Statutes, as amended by section one of chapter three hundred and six of the acts of the year eighteen hundred and eighty-eight, is hereby amended by inserting after the word "decease," in the seventh line, the words : and a physician who has attended at a birth of a child dying immediately thereafter, or at the birth of a stillborn child, shall, when requested, forthwith furnish for registration a certificate stating, to the best of his knowledge and belief, the fact that such a child died after birth or was born dead, — also by inserting after the word "aforesaid," in the eighth line, the words : or makes a false statement therein, — so as to read as follows : *Section 3.* A physician who has attended a person during his last illness shall, when requested forthwith, furnish

for registration, a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died, the duration of his last sickness, and the date of his decease; and a physician who has attended at a birth of a child dying immediately thereafter, or at the birth of a stillborn child, shall, when requested, forthwith furnish for registration a certificate stating, to the best of his knowledge and belief, the fact that such a child died after birth or was born dead. If a physician neglects or refuses to make a certificate as aforesaid, or makes a false statement therein, he shall be punished by a fine not exceeding fifty dollars.

SECT. 2. Section five of chapter thirty-two of the Public Statutes, as amended by section two of chapter three hundred and six of the acts of the year eighteen hundred and eighty-eight, is hereby amended by striking out in the second and third lines thereof, the words "the body of a deceased person," and inserting in place thereof the words: a human body, — so as to read as follows: *Section 5.* No undertaker, sexton, or other person shall bury in a city or town or remove therefrom a human body until he has received a permit so to do from the board of health or its duly appointed agent, or, if there is no board of health in such city or town, from the city or town clerk. No such permit shall be issued until there has been delivered to such board, or agent or clerk, as the case may be, a satisfactory written statement containing the facts required by this chapter to be returned and recorded, together with the certificate of the attending physician, if any, as required by section three of this chapter, or in lieu thereof a certificate as hereinafter provided. If there is no attending physician, or if the certificate of the attending physician cannot be obtained, for good and sufficient reasons, early enough for the purpose, the chairman of the board of health or any physician employed by a city or town for the purpose shall, upon request of said board, agent, or clerk, make such certificate as is required of the attending physician; and in case of death by violence the medical examiner shall, if requested, make the same. When such satisfactory statement and certificate are delivered to the board of health or to its agent, the board or agent shall forthwith countersign and transmit the same to the clerk or registrar for registration. The person to whom the permit is so given shall thereafter furnish for registration any other information as to the deceased or to the manner and cause of the death, as the clerk or registrar may require. Any person violating any of the provisions of this section shall be punished by a fine not exceeding fifty dollars.

SECT. 3. This act shall take effect upon its passage.

*Approved April 26, 1893.*

## CHAPTER 461 OF ACTS OF 1893.

### AN ACT RELATIVE TO SOLEMNIZING MARRIAGES.

*Be it enacted, etc., as follows:*

SECTION 1. Any rabbi of the Israelitish faith may solemnize a marriage under the same rules, restrictions, obligations and penalties as are imposed by law upon ministers of the gospel in this Commonwealth. Such rabbi must be one duly licensed to act by a congregation of said faith established in this Commonwealth.

SECT. 2. The provisions of section twenty-seven of chapter one hundred and forty-five of the Public Statutes shall apply to such a marriage.

SECT. 3. This act shall take effect upon its passage.

*Approved June 9, 1893.*



## CHAPTER 206 OF ACTS OF 1894.

## AN ACT RELATING TO RETURNS OF BIRTHS, MARRIAGES, AND DEATHS.

*Be it enacted, etc., as follows :*

Section ten of chapter thirty-two of the Public Statutes is hereby amended by inserting in the first line after the word "town" the words "except Boston," and by adding at the end of said section the words, "the city registrar of Boston shall transmit the copies of his record on or before the first day of May annually," so as to read as follows :

"*Section 10.* The clerk of each city and town, except Boston, shall annually, on or before the first day of March, transmit to the secretary of the Commonwealth certified copies of the records of the births, marriages, and deaths which have occurred therein during the year ending on the last day of the preceding December. The city registrar of Boston shall transmit the copies of his records on or before the first day of May annually."

*Approved April 5, 1894.*

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## CHAPTER 401 OF THE ACTS OF 1894.

## AN ACT CONCERNING THE MARRIAGE OF MINORS.

*Be it enacted, etc., as follows :*

SECTION 1. No town or city clerk or registrar shall receive a notice of the intention of marriage of any male under the age of eighteen years, nor of any female under the age of sixteen years, except as hereinafter provided.

SECT. 2. The judge of probate in any county, after due hearing, may make an order allowing the marriage of a minor under the age specified in the preceding section: *provided*, that said minor resides in a city or town within the county wherein said judge holds court; and *provided, also*, that the father of such minor, or in case of his death the mother, has consented to such order, and that in case neither parent is alive and resident in this Commonwealth a legal guardian has been appointed, whose consent has been given to such order. On the receipt of a certified copy of such order by the clerk or registrar of the town or city where such minor resides, he shall receive the notice required by law and issue a certificate as in other cases.

SECT. 3. This act shall take effect upon its passage.

*Approved May 18, 1894.*

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## CHAPTER 402 OF THE ACTS OF 1894.

## AN ACT RELATIVE TO RECORDS OF BIRTHS, DEATHS, AND MARRIAGES.

*Be it enacted, etc., as follows :*

SECTION 1. Section two of chapter three hundred and five of the acts of the year eighteen hundred and ninety-two is hereby amended by striking out all of said section to and including the word "direction," in the fifth line, so as to read as follows :

"*Section 2.* Whenever it is deemed expedient to make a new copy of any earlier records, each page shall be verified and signed by the clerk or registrar, and such record while preserved in proper custody shall have the same force and effect as the original record."

SECT. 2. No town or city clerk or registrar shall alter or add to any record of a birth, death, or marriage already entered in any book or formal list in his charge, except upon such evidence as was required by law for the original entry, or upon a certified copy of the record of any other city or town, or of the record made at the time by any person since deceased, who was required by law to furnish the evidence of birth, death, or marriage, and such correction shall be at his discretion. In no case shall the first entry be erased, but all corrections shall be added.

SECT. 3. This act shall take effect upon its passage.

*Approved May 18, 1894.*

## CHAPTER 409 OF THE ACTS OF 1894.

### AN ACT RELATIVE TO MARRIAGES AND THE ISSUING OF CERTIFICATES THEREFOR.

*Be it enacted, etc., as follows:*

SECTION 1. City clerks and registrars may require notices of intention of marriage to be given to them in writing, on blanks to be furnished by them, by one of the parties to such intended marriage, or by his or her parent or legal guardian, and may require the party giving such notice to make oath before them to the truth of all the statements therein whereof he or she could have knowledge. No fee shall be charged for administering such oath.

SECT. 2. Any city clerk or registrar may refuse to issue a certificate to any parties, in case he has reasonable grounds to believe that any of the statements contained in the notice of intention of marriage are incorrect; but he may, in his discretion, accept depositions under oath, made before him, and such depositions shall be taken and deemed to be sufficient proof of the facts therein stated to authorize the issuing of a certificate. A city clerk or registrar may dispense with the statement of any of the facts required by law to be given in notices of intention of marriage, whenever such facts do not relate to or affect the identity or age of the parties, if he is satisfied that the same cannot be obtained with reasonable effort.

SECT. 3. No city clerk or registrar shall be required to receive notices of intention of marriage at any place except his office, nor shall he be required to receive such notices on the Lord's day or public holidays.

SECT. 4. Whenever, in the marriage of a minor, it is necessary to give notice in two towns or cities, the town or city clerk or registrar who first takes the consent of the parent or guardian shall take it in duplicate, retaining one copy and delivering the other duly attested by him to the party obtaining the certificate, to be given to the clerk or registrar issuing the second certificate; and no fee shall be charged for such consent or copy.

SECT. 5. Any clergyman or rabbi duly authorized to solemnize a marriage in this Commonwealth may perform the ceremony anywhere within the same.

SECT. 6. No person shall give the notice of intention of marriage required by law without the consent of both the parties to such intended marriage, and any person giving such notice without such consent shall be liable in an action of tort to the person whose name was so used without such consent for all damages thereby sustained by such person.

SECT. 7. The superior court, upon petition of either of the parties alleged to intend marriage in a notice of intention of marriage, given



without the consent of both parties therein alleged to intend marriage, and not followed by a marriage between said parties, may, upon such notice as said court may order and after a hearing upon such petition, adjudge that such notice of intention of marriage be cancelled and expunged from the records of the city or town in which the same was recorded.

SECT. 8. Whoever violates any of the provisions of this act shall upon conviction thereof within one year after such violation, be punished by a fine not exceeding five hundred dollars or by imprisonment in jail or in the house of correction for not more than one year, or both.

*Approved May 19, 1894.*

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It seems that the Legislature of Massachusetts had made provision for this point. In the Revised Statutes of 1836, chapter 4, section 13, it was provided that

“ If, at any election a greater number of candidates than the number to be elected shall severally receive a majority of the whole number of ballots, a number equal to the number to be elected, of such as have the greatest excess over such majority, shall be deemed and declared to be elected; but if the whole number to be elected cannot thus be completed, by reason of any two or more of such candidates having received an equal number of ballots, the candidates having such equal number shall be deemed not to be elected.”

This was during the period when an absolute majority was necessary to a choice; but in 1855 the plurality law was established by Amendment No. 14. The statute was then altered (see Gen. Stat., chap. 7, § 14, and Pub. Stat. chap. 7, § 25), providing that in all elections of civil officers by the people, “ the person or persons having the highest number of votes shall be deemed and declared elected, but no persons receiving the same number of votes shall be deemed to be elected, if thereby a greater number would be elected than required by law.”

This, of course, did away with the old trouble of having too many candidates receive a majority vote, as that feature was not essential. It is confined, however, to popular elections, and the case still arises in representative bodies, city councils, societies, and others where the majority rule remains.

I trust, therefore, this little explanation will not be deemed superfluous.

W. H. WHITMORE.

BOSTON, March 17, 1892.



## LIST OF CITY CLERKS, 1894.

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CITIES.	INCORPORATED.	CLERKS.
Boston . . . . .	1822	{ J. M. Galvin. W. H. Whitmore (Registrar).
Salem . . . . .	1836	H. M. Meek.
Lowell . . . . .	1836	M. J. Dowd.
Cambridge . . . . .	1846	W. W. Pike.
New Bedford . . . . .	1847	D. B. Leonard.
Worcester . . . . .	1848	E. H. Towne.
Lynn . . . . .	1850	C. E. Parsons.
Newburyport . . . . .	1851	G. H. Stevens.
Springfield . . . . .	1852	E. A. Newell.
Lawrence . . . . .	1853	W. T. Kimball.
Fall River . . . . .	1854	G. A. Ballard.
Chelsea . . . . .	1857	G. B. Gurney.
Taunton . . . . .	1864	E. A. Tetlow.
Haverhill . . . . .	1869	W. W. Roberts.
Somerville . . . . .	1871	G. I. Vincent.
Fitchburg . . . . .	1872	W. A. Davis.
Holyoke . . . . .	1873	T. D. O'Brien.
Gloucester . . . . .	1873	J. J. Somes.
Newton . . . . .	1873	I. F. Kingsbury.
Malden . . . . .	1881	L. D. Holden.
Brockton . . . . .	1881	D. C. Packard.
Northampton . . . . .	1883	E. I. Clapp.
Waltham . . . . .	1884	L. N. Hall.
Quincy . . . . .	1888	H. A. Keith.
Woburn . . . . .	1888	J. H. Finn.
Pittsfield . . . . .	1889	E. C. Hill.
Chicopee . . . . .	1890	J. D. White.
Marlborough . . . . .	1890	P. B. Murphy.
Medford . . . . .	1892	A. P. Joyce.
Everett . . . . .	1892	J. H. Cannell.

ANNUAL REPORT  
OF THE  
REGISTRY DEPARTMENT  
OF THE  
CITY OF BOSTON,  
FOR THE  
YEAR 1894.

[The first report of this department was for the year 1849. No report was issued for the years 1860 and 1861. The title-page of the report for 1882 is wrongly printed as Document 89 of 1882, instead of 1883.]



BOSTON:  
ROCKWELL AND CHURCHILL, CITY PRINTERS.  
1895.



## A MYSTERY OF THE BALLOT.

(From the *Nation* for April 14, 1892.)

In looking over the pages of the *Historical Magazine* I noticed an article copied from the *Boston Advertiser* for some date about A.D. 1860, calling attention to a matter which has often puzzled those who have counted ballots. It is this: when several persons ballot honestly to choose several persons on one ballot, how is it that more than the necessary number receive a majority of ballots? For example: if five men each vote for three candidates, requiring thus three votes to elect, why is it that more than three of them get three votes? In dealing with larger figures, the number of successful candidates may be so many as to almost double the list. I have known some such instances, and have often heard the statement that the result was impossible and showed evident fraud. After studying the example given in the article quoted, I believe that I discern the principle, a very simple one, but I have never happened to see it stated. I will therefore do so, believing that many persons share my ignorance and will be glad to see an explanation.

The rule seems to be this: multiply the number of officers to be chosen by the number of votes, and divide the result by the number required for an election; the quotient will be the number of persons who can be elected, and the remainder will represent unnecessary or cumulative votes, which may be discarded.

Thus, if five voters each vote for three candidates, a total of fifteen votes is cast; which, divided by three, the number necessary for a choice, gives five candidates receiving a majority vote.

Example:

A	votes for candidates	1, 2, 3.
B	" " "	1, 2, 3.
C	" " "	1, 4, 5.
D	" " "	2, 4, 5.
E	" " "	3, 4, 5.

The individual ballot might be varied considerably, always resulting, however, in a majority vote for five candidates. In fact, as the majority is always a little more than one-half the number of voters, the quotient in the rule must always be at least one less than double the number of candidates; but the greater the number of voters and candidates, the less the discrepancy will be. In fact, the true answer to the problem seems to be this: the number of candidates receiving a majority may always amount to twice the number voted for on one ballot, *less one* invariably, and also less a few more, according to the results of the rule. But I think it will surprise most persons to find that if 100 persons ballot for 30 candidates, 58 could receive a majority vote, or 51 votes apiece; though a little explanation makes it self-evident.

ANNUAL REPORT  
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BOSTON:  
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1895.

✓





BOSTON, June, 1895.

HON. EDWIN U. CURTIS,

*Mayor of the City of Boston:*

SIR: In compliance with the ordinance, I beg leave to report that, according to our books, there were recorded for the year 1894,

15,401 births { including 247 children of parents usually residing out of this city.  
28 born out of town of Boston parents.

6,251 intentions of marriage.

5,464 marriages solemnized in this city.

779 marriages of citizens married elsewhere in the State, including 110 marriages of citizens married out of the State.

11,531 deaths.

721 still-born children. (See Appendix A.)

As compared with previous years :

	1892.	1893.	1894.
Births . . . .	15,154	14,602	15,401
Intentions . . . .	6,516	6,564	6,251
Marriages . . . .	5,670	5,755	5,464
Deaths . . . .	11,241	11,713	11,531

#### LEGISLATION.

In my report for 1893 so much space was given to new legislation just coming into effect, that it is only necessary to consider its results. The law in regard to the marriage of minors has proved quite effectual, and recent immigrants seem to have been informed of our customs and laws. Many alterations of the laws respecting marriages and registration were proposed to the Legislature of 1895, but only one new law, viz., chapter 427, was enacted. The Spiritualists and the Salvation Army both asked for laws allowing their officers or nominees to have the power to solemnize marriages.

In October, 1894, a case was tried in the Roxbury Police Court to test the meaning of the law requiring a clergyman



to be "ordained according to the usage of his denomination," before he could solemnize marriage. The Court, after a careful presentation of evidence by experts in ecclesiastical history, decided that the defendant, who belonged to the Trinitarian Congregational denomination, had not been ordained in proper form, as no council of churches was called to ordain and install. The larger question of what constitutes ordination in other Congregational denominations was not raised.

It would seem that before long the Legislature will be forced to revise the language of the statutes so as to meet the changes of the past century. New faiths demand recognition, even to the extent of preferring civil marriages only to the present privileges given to certain denominations.

On Christmas Eve a member of the Salvation Army assumed to solemnize a marriage in this city, and thereby raised another question as to the meaning of the words "ordination" and "denomination." This case is still in the hands of the police authorities for trial.

The law conferring on Israelitish rabbis the same power as to marrying which Christian ministers possess, seems to be unnecessarily lax. It appears in practice that many persons are called rabbis who cannot speak or write English. They do not understand our laws, and perform marriages without complying therewith. Even when instructed as to the need of a certificate, they cannot read it nor make the proper endorsement thereon. As they act in this matter as officers of the Commonwealth, it seems only fair to require a competent knowledge of our language. I therefore recommend that application be made to the Legislature for such an amendment to chapter 461 of Acts of 1893.

In my last report were printed the drafts of acts respecting the names of persons, and official seals. With the Mayor's approval these acts were submitted to the Legislature of 1895, and rejected with the utmost promptness. I beg leave to suggest that these reforms must eventually be made, in view of the hardships inflicted by the present law or lack of law in regard to change of names. At present if a parent or even a domestic give the Christian name of a child to the officials, that name can only be altered by order of the Probate Court, at a cost of some twenty-five dollars. As to the right to use an official seal in this office, the refusal to authorize it causes much inconvenience to persons in other States where such seals are in use. Their laws require copies to be certified by the official seal, and no valid objections have ever been raised to some similar act in this Commonwealth.

The law in regard to the record of deaths remains in the old, unsatisfactory state.

By statute the record of the town clerk relative to a death is made *prima facie* evidence in legal proceedings of the facts recorded. The physician and the undertaker share the responsibility of furnishing the certificates by which these records are made, including the age of the deceased person. This fact is evidently one which, except in the case of an infant, is beyond the personal knowledge of the physician or undertaker, yet the latter must fill out the certificate before he can obtain a permit to bury the deceased. As a matter of course the age is often incorrectly stated, and great inconvenience or damage results. A surprisingly large number of persons are interested in life-insurances. The exact age becomes often a matter of great importance when the age of the deceased is recorded as different from that given in his life-time. The authority wrongly given by our statutes to the official record of the age of the deceased, becomes a hindrance to justice. The State officials may properly expect to prove the exact date of births, marriages, or deaths; and with living persons to question, they can obtain the probable ages of persons applying for a marriage certificate. But the age of a dead man is a matter beyond the scope of their facilities of knowledge. The law should be amended so as to define the proofs of age to be required, and the method of correcting errors.

#### CONSOLIDATED INDEXES.

In July, 1894, I was able to report that the Consolidated Indexes of Deaths, from 1849 to 1881 inclusive, had been completed. Early in 1895 the similar Indexes of Births were finished and put in use. The Marriage Indexes will be finished by September 1, and in fact one volume of the six is already finished.

From 1882 to date the various Indexes have been classified ones, the only suitable form. It has been deemed necessary to have these all rebound, each year separately, for obvious reasons. In doing this, the experiment has been tried of binding in canvas covers. The experience of this office has shown that binding large and heavy volumes in full calf is not only very expensive, but not very durable. For the past two years binding in half calf with ends and corners and cloth sides has been tried as a matter of economy. Now the experiment of substituting canvas for leather is in progress, and if successful the saving will be considerable.



## ANCIENT RECORDS.

During the past year this department has issued the volumes mentioned in the last report, viz.: Hales's Plans of Boston Street Lines, and the Mayors' Inaugural Addresses. Both volumes have been favorably received by the public. I hope to issue a second volume of the Addresses this year.

Volumes 24 and 25 of the Record Commissioners' Reports have been printed and distributed. The 26th Report will be issued by September, and the series of Town Records is approaching completion. The loss of the stereotype plates of so many of the earlier volumes of the Reports, due to the accident in the City Hall basement, has prevented our issuing sets to numerous applicants. I am repairing these deficiencies, however, as rapidly as possible.

The documents kindly sent here from the Overseers of the Poor have been mounted and bound in six volumes. The volumes of Apprentices' Indentures in the last century have been indexed.

The volume of Boston Marriages from 1700 to 1800 is being prepared for the press, and the record of Banns or Publishments will be collated therewith.

---

The financial statement for the Record branch of this office, as kept in the accounts of the Superintendent of Printing, is as follows:

## CR.

Balance on hand February 1, 1894	.	.	\$5,113 38
Appropriation, 1894	.	.	3,000 00
			<hr/>
			\$8,113 38
			<hr/>

## DR.

Cost of Hales's Plans, balance	.	.	\$2,833 53
Cost of Mayors' Inaugurals, Vol. 1	.	.	740 98
Cost of Record Commissioners' Report, No. 24			1,016 71
Balance February 1, 1895	.	.	3,522 16
			<hr/>
			\$8,113 38
			<hr/>

CHAP. 249, OF ACTS OF 1895.

AN ACT TO AUTHORIZE THE CITY OF BOSTON TO PAY A  
SUM OF MONEY TO CATHERINE J. SHORT.

*Be it enacted, etc., as follows:*

SECTION 1. The city of Boston is hereby authorized to pay to Catherine J. Short, widow of John C. Short, late a clerk in the employ of said city, the balance of salary to which he would have been entitled had he lived and continued to hold his office until the first day of May, in the year eighteen hundred and ninety-five.

SECT. 2. This act shall take effect upon its passage.

*Approved April 6, 1895.*

By an order of the City Council, approved by His Honor the Mayor, April 24, 1895, the sum of \$1,074.09 was paid for the above purpose. This was of course not included in the annual estimates.

Respectfully submitted,

WILLIAM H. WHITMORE,  
*City Registrar.*



## FINANCIAL STATEMENT.

Cash on hand February 1, 1894 (City Doc. No. 60)	\$158 00
Appropriation for 1894	33,000 00
	<hr/>
	\$33,158 00

## RECEIPTS.

Received for Marriage Licenses, from February 1, 1894, to January 31, 1895, inclusive:

Nos. 516 @ 6,251, of 1894, = 5,736 certificates	
Nos. 1 @ 513, of 1895, = 513 "	
	<hr/>
6,249 " @ 50c. =	3,124 50
	<hr/>
	\$36,282 50

## EXPENDITURES.

Salaries, regular employees	\$19,300 52
Collecting births of 1893	1,601 33
Extra work on Consolidated Indexes	8,283 75
Binding old records in office	1,874 08
Printing and stationery	1,350 82
Sundries	556 15
	<hr/>
	\$32,966 65
Transfer by Auditor February 1, 1895	33 35
	<hr/>
	\$33,000 00
Paid physicians for 10,426 births at 25c., reported from February 1, 1894, to February 1, 1895, as per vouchers paid in by me to the Auditor, viz.:	
February 1 to June 30, '94	\$1,012 50
July 1 to October 31, '94	862 00
Nov. 1, '94, to February 1, '95,	732 00
	<hr/>
	2,606 50
Cash paid City Collector, per vouchers	500 00
	<hr/>
	\$36,106 50
Cash balance February 1, 1895	176 00
	<hr/>
	\$36,282 50

## APPENDIX A.

## Still-Births for 1894.

	M.	F.	U.	Total.
January .....	32	25	1	58
February .....	34	22	1	57
March .....	37	25	2	64
April .....	27	23	.....	50
May .....	37	28	4	69
June .....	39	37	5	81
July .....	33	17	2	52
August .....	27	17	1	45
September .....	31	22	2	55
October .....	40	33	1	74
November .....	44	26	1	71
December .....	29	15	1	45
Total .....	410	290	21	721

Included in the above table are twenty-one *Colored* Still-births, fourteen males and seven females.

	M.	F.	Total.
January .....	5	2	7
February .....	.....	1	1
March .....	.....	1	1
April .....	2	1	3
May .....	1	.....	1
June .....	1	1	2
July .....	1	.....	1
August .....	1	.....	1
September .....	1	.....	1
October .....	.....	.....	.....
November .....	.....	1	1
December .....	2	.....	2
Total .....	14	7	21



## APPENDIX B.

PROMINENT PERSONS ON ACCOUNT OF AGE OR SERVICE  
WHO DIED IN 1894.

DATE OF DEATH.		AGE.
1894.		
Jan. 2	Daniel Hurley . . . . .	85
3	Elizabeth P. Peabody . . . . .	89
4	Edward Gallagher . . . . .	87
4	William Smith . . . . .	86
4	Drury M. Marshall . . . . .	84
4	William Moulton (Ex-Policeman) . . . . .	82
4	William G. Means (Treasurer) . . . . .	78
5	William Taylor (Ex-Health Commissioner) . . . . .	62
7	Joshua R. Peirce (Rev.) . . . . .	62
7	Margaret McDonald . . . . .	85
7	Sarah Foster . . . . .	95
8	William Daly . . . . .	88
8	Edward Motley . . . . .	77
8	Lucy Bowe . . . . .	89
8	Louisa C. Vose . . . . .	92
9	Nancy B. Fleming . . . . .	86
9	Joseph Good . . . . .	86
10	Martin V. B. Kimball (Captain of Engine 32) . . . . .	59
12	George W. Forristall (Supt. of Sanitary Dept.) . . . . .	67
12	Thomas F. Maxwell (Probation Officer) . . . . .	52
14	Bridget Sullivan . . . . .	90
15	John McElroy . . . . .	85
15	John S. Martin . . . . .	80
17	Thomas Cahir . . . . .	86
18	Johanna Fitzpatrick . . . . .	88
18	Nathan Holbrook . . . . .	86
19	William Gaston (Ex-Mayor) . . . . .	73
21	Edward C. Brooks (Bank Cashier) . . . . .	64
21	Almira Pike . . . . .	89
23	Hannah J. Owen . . . . .	90
25	Margaret G. Redding . . . . .	92
27	Lucinda C. Phillips . . . . .	85
28	Thomas Hersey . . . . .	88
28	Lydia S. Wiley . . . . .	87
29	James Adams (Lieut. of Police) . . . . .	80
Feb. 3	Bridget Keough . . . . .	90
3	Joseph T. Orne . . . . .	85
4	Francis B. Snow (Teacher) . . . . .	69
4	Lucretia Towne . . . . .	89
5	Archibald H. Doig (M.D.) . . . . .	28
6	Thomas A. Gardner . . . . .	89
8	Anna Fleschner . . . . .	88
9	Catherine Kitson . . . . .	85
9	Lyman Mason (Lawyer) . . . . .	78
10	Susan Leavitt . . . . .	86
12	Jonas B. Clarke (Rev.) . . . . .	78

# REGISTRY DEPARTMENT.

9

DATE.		AGE.
Feb. 15	Elizabeth Gilson . . . . .	85
15	Jacob S. Whitney . . . . .	85
16	Edward Bangs (Lawyer) . . . . .	68
16	Robert S. Covell (Bank President) . . . . .	65
17	James Towle . . . . .	89
17	James E. Priest (Deputy Collector) . . . . .	47
17	Olive W. Prentiss . . . . .	87
18	Lucy Marshall . . . . .	93
19	Thomas Goddard . . . . .	88
20	Ellen Dilley . . . . .	87
20	Horatio N. Crane . . . . .	90
22	Benjamin S. Codman (M.D.) . . . . .	77
23	William Sohler (Lawyer) . . . . .	71
24	Letitia Blakemore . . . . .	84
24	Moses L. Capen . . . . .	85
26	William Minot (Lawyer) . . . . .	76
27	William J. G. Fogg (M.D.) . . . . .	42
27	William H. Towne (Lawyer) . . . . .	50
28	Mary A. Nazro . . . . .	99
28	Hannibal T. Ripley (Truant Officer) . . . . .	61
Mar. 1	Joel Seaverns (M.D.) . . . . .	65
3	Lawrence O'Connor . . . . .	90
4	Warren K. Blodgett (R.R. President) . . . . .	67
5	Nancy P. Worster . . . . .	85
5	Timothy Daniell . . . . .	87
6	Susan Gray . . . . .	95
9	Bethiah A. Weymouth . . . . .	85
9	Robert Rickford (Teacher) . . . . .	70
10	John O'Donovan . . . . .	92
10	Deborah O'Connor . . . . .	87
11	Elizabeth Dwyer . . . . .	86
11	Mary J. Sanborn . . . . .	86
12	James Crawson . . . . .	89
12	Mary B. Hoadley . . . . .	86
13	Eliza A. Crawson . . . . .	83
18	Samuel King . . . . .	88
23	Sarah Reinstein . . . . .	88
24	Henry A. McGlenen . . . . .	67
26	Rebecca F. Walcott . . . . .	88
27	Fanny Knapp . . . . .	90
29	Clara A. W. Sumner . . . . .	86
31	Sullivan L. Carpenter . . . . .	85
April 3	John M. L. Babcock (Rev.) . . . . .	71
4	Maria C. Crabbio . . . . .	90
10	Sarah Foley . . . . .	87
11	Mary E. Dillaway . . . . .	94
11	Kezia D. Dickey . . . . .	87
11	Sarah Vye . . . . .	93
12	James M. Keith (Lawyer) . . . . .	74
13	James H. Means (Rev.) . . . . .	70
15	Edward L. Giddings (Rev.) . . . . .	62
16	Mary A. C. Cooledge . . . . .	87
16	Margaret A. Sargent . . . . .	85
17	Frank H. Hinman (Rev.) . . . . .	36
17	Bridget McCaffrey . . . . .	85
20	John L. Emmons . . . . .	90
21	Ann E. Lambert . . . . .	85
22	Fanny Crowell . . . . .	89
'23	Henry K. Appleton . . . . .	83



DATE.		AGE.
April	25 Susan N. May . . . . .	90
	26 Thomas Morong (Rev.) . . . . .	67
	28 Nancy W. Houghton . . . . .	84
	28 Frederick J. Krollman (M.D.) . . . . .	50
May	4 Waldo Higginson (Ins. Co. President) . . . . .	80
	6 Ann R. Morrill . . . . .	90
	7 John P. Tarbell (Lawyer) . . . . .	86
	8 Catherine Fitzgerald . . . . .	92
	14 Maurice K. Hartnett (M.D.) . . . . .	70
	14 Alonzo Dexter . . . . .	87
	15 Mary Tarbox . . . . .	85
	16 Harriet Emery . . . . .	95
	16 Louisa Tilden . . . . .	91
	16 Ann H. Brown . . . . .	86
	17 John Toal . . . . .	98
	19 Jeremiah G. Newell . . . . .	85
	19 Bridget Broderick . . . . .	90
	24 Patrick Cronan . . . . .	95
	25 Nancy C. Gilman . . . . .	88
	27 Samuel T. Hawthorne (M.D.) . . . . .	62
	29 Freeman French . . . . .	88
	29 Jane Douglass . . . . .	96
June	3 Patrick Curley . . . . .	90
	7 Catherine Hogan . . . . .	90
	8 Lucy E. Stratton . . . . .	89
	9 Bridget Hibbits . . . . .	85
	17 Charles E. Briggs (M.D.) . . . . .	61
	18 Thatcher Thomas . . . . .	87
	18 Lucy Jackson . . . . .	87
	20 Mary A. Smith . . . . .	85
	22 John Cordner (Rev.) . . . . .	77
	22 Samuel B. Clarke (M.D.) . . . . .	35
	28 Patrick Flynn . . . . .	85
	20 Celia Rogers (Colored) . . . . .	90
July	2 Nora H. Hickey . . . . .	88
	4 Mariana Ehemann . . . . .	85
	4 Hepzibah B. Murphy . . . . .	85
	4 Margery Lynn . . . . .	92
	10 Joshua Emmons . . . . .	94
	12 Mehitabel Carr . . . . .	91
	12 Michael Moran (Rev.) . . . . .	60
	13 Leonard R. Cutter (Ex-Alderman) . . . . .	69
	14 Thomas Adams . . . . .	91
	15 Joseph A. Pagani (M.D.) . . . . .	58
	16 Adeline V. Hyde . . . . .	85
	16 Charles S. Rogers (Rev.) . . . . .	63
	18 William H. Garfield . . . . .	84
	19 Charles H. Thomas . . . . .	87
	20 Daniel Delaney . . . . .	89
	20 Julia Chauncey . . . . .	92
	21 Michael Roache . . . . .	93
	22 Samuel C. Clark . . . . .	85
	24 John C. Short (Asst. City Registrar) . . . . .	33
	26 Mary Knight . . . . .	86
	27 Lucy B. Lunt . . . . .	85
	27 Amos Cutler . . . . .	85
Aug.	4 Madeline M. Griess . . . . .	85
	6 Eliza C. Forbes . . . . .	90
	7 Joshua Haines . . . . .	90

# REGISTRY DEPARTMENT.

11

DATE.		AGE.
Aug. 8	Alexander Mitchell . . . . .	93
9	Harriet Horton . . . . .	91
16	Henry K. Frothingham . . . . .	87
21	John Reid . . . . .	86
21	William A. Quinn (Rev.) . . . . .	26
25	Helen M. Robbins . . . . .	87
28	Eliza Van Buskirk . . . . .	88
30	Charlotte A. Smith . . . . .	92
31	Frederick P. Conant . . . . .	87
Sept. 2	Mary E. Browning . . . . .	90
5	Hannah Gill . . . . .	85
8	Fidelia Wiley . . . . .	85
9	Magdalena A. Thayer . . . . .	86
12	Franklin Cummings . . . . .	92
12	John Sullivan . . . . .	86
16	Michael Donnelly . . . . .	85
17	Daniel S. Stone . . . . .	85
17	Mary M. Wetherbee . . . . .	89
18	Evelina A. S. Smith . . . . .	92
18	Mary A. B. Smith . . . . .	86
23	Miriam R. Valentine . . . . .	92
27	Charlotte B. Clark . . . . .	86
28	Annie M. Bird . . . . .	85
28	Frederick D. Allen . . . . .	86
30	Margaret Sears . . . . .	98
Oct. 2	Thomas W. Seaverns . . . . .	91
4	Albinus O. Hamilton (M.D.) . . . . .	62
5	Sarah C. Carr . . . . .	95
7	Luther Colby (Editor) . . . . .	80
7	Joseph S. Lovering . . . . .	85
7	Oliver W. Holmes (M.D.) . . . . .	85
10	Mary F. Hall . . . . .	92
10	Charles Main (M.D.) . . . . .	79
15	Adeline A. Lucy . . . . .	85
18	Catharine Hooper . . . . .	85
23	Edward A. Johnson . . . . .	84
23	Sarah J. Williams . . . . .	85
24	Margaret Conn . . . . .	92
24	Betsey Jewell . . . . .	86
26	Catharine Needham . . . . .	85
28	Robert L. Huckins (Dept. Warden, State Prison) . . . . .	53
28	Henry C. Hutchins (Lawyer) . . . . .	74
30	Edward P. Loring (Lawyer) . . . . .	58
31	William H. Foster . . . . .	84
Nov. 2	Christina D. Delano . . . . .	91
2	Joanna Daly . . . . .	85
3	Philander S. Witherell . . . . .	85
3	Joseph W. Turner (Prof. of Music) . . . . .	76
7	Diana Grant . . . . .	93
7	Sarah D. Hobart . . . . .	85
8	Mary A. Cates . . . . .	86
8	Isidor Eichberg (Prof. of Music) . . . . .	68
9	Lydia Payson . . . . .	85
14	Anna C. Lowell . . . . .	86
14	Derrick W. Chapin . . . . .	84
16	Mary McDonough . . . . .	85
16	Robert C. Winthrop . . . . .	85
17	Bridget Meehan . . . . .	92
20	Elizabeth B. Needham . . . . .	86





## APPENDIX C.

## INTRODUCTION.

For many reasons it seems desirable to collect in chronological arrangement, the laws relating to marriages and the registration thereof, from the date of the establishment of the Commonwealth.

The history of the marriage laws prior to that date has been admirably set forth by Chief Justice HORACE GRAY of our Supreme Court, in the case of *Commonwealth v. Munson*, decided in Oct., 1879, and reported in 127 Mass. Reports.

With the consent of the Reporter of Decisions, the opinion is given in full.

W. H. W.

OPINION OF THE SUPREME COURT IN THE CASE OF  
COMMONWEALTH *v.* MUNSON.

GRAY, C. J. In Massachusetts, from very early times, the requisites of a valid marriage have been regulated by statutes of the Colony, Province, and Commonwealth; the canon law was never adopted; and it was never received here as common law, that parties could by their own contract, without the presence of an officiating clergyman or magistrate, take each other as husband and wife, and so marry themselves. *Milford v. Worcester*, 7 Mass. 48, 53. 2 Dane Ab. 291, 301. 2 Winthrop's Hist. New England, 43. This clearly appears on tracing the history of the legislation upon the subject; the whole of which, whether repealed or unrepealed, is by a familiar rule to be considered in ascertaining the intention of the Legislature. *Church v. Crocker*, 3 Mass. 17, 21. *Eaton v. Green*, 22 Pick. 526, 531. *Commonwealth v. Bailey*, 13 Allen, 541, 545.

As early as 1639, it was "ordered and declared" by the General Court, "that there be records kept of the days of every marriage, birth and death of every person within this jurisdiction." 1 Mass. Col. Rec. 276. Anc. Chart. 43. In 1642, it was enacted that "the magistrates and other persons appointed to marry shall yearly deliver to the recorder of that court which is nearest to the place of their habitation the names of such persons as they have married, with the days, months and years of the same; and the said recorders are faithfully and carefully to enrol such marriages as shall thus be committed to their trust;" and in 1644,



every new-married man was required "to bring in a certificate of his marriage, under the hand of that magistrate which married him, to the clerk of the writs," to be recorded. 2 Mass. Col. Rec. 15, 59. Mass. Col. Laws (ed. 1660) 68; (ed. 1672) 130. Anc. Chart. 181.

The requisite of solemnization before a magistrate or other authorized person, as essential to constitute a valid marriage, which had been clearly implied in these statutes, was distinctly expressed in the following statute of 1646: "As the ordinance of marriage is honorable amongst all, so should it be accordingly solemnized. It is therefore ordered by this Court and authority thereof, that no person whatsoever in this jurisdiction shall join any persons together in marriage, but the magistrate, or such other as the General Court or Court of Assistants shall authorize in such place where no magistrate is near. Nor shall any join themselves in marriage, but before some magistrate or person authorized as aforesaid. Nor shall any magistrate, or other person authorized as aforesaid, join any persons together in marriage, or suffer them to join together in marriage in their presence, before the parties to be married have been published according to law." Mass. Col. Laws (ed. 1660) 52; (ed. 1672) 102. Anc. Chart. 152.

In 1656 and 1658, the "commissioners for ending small causes in the several towns where no magistrate dwells" were "authorized and empowered to solemnize marriage between parties legally published;" "and all other commissions in this case are hereby made void." 4 Mass. Col. Rec. pt. i. 255, 322. Anc. Chart. 152. The provision of the St. of 1646, prohibiting persons to join themselves in marriage, except before a magistrate or other authorized person, continued in force throughout the period of the colony charter.

By the Prov. St. of 1692-3 (4 W. & M.) c. 25, "every justice of the peace within the county where he resides, and every settled minister in any town, shall and are hereby respectively empowered and authorized to solemnize marriages, within their respective towns and counties, betwixt persons that may lawfully enter into such a relation, having the consent of those whose immediate care and government they are under, and being likewise first published" as therein directed; and "every justice and minister shall keep a particular register of all marriages solemnized before any of them, and make a return thereof" quarterly to the clerk of the sessions of the peace of the county, to be by him registered. 1 Prov. Laws (State ed.) 61. Anc. Chart. 242.

By the Prov. St. of 1695-6 (7 W. III.) c. 2, § 4, "for the better preventing of clandestine marriages," it is enacted that "no person other than a justice of the peace, and that within his own county only, or ordained minister, and that only in the town where he is settled in the work of the ministry, shall or may presume to join any persons together in marriage; nor shall any justice or minister join any person in marriage other than such one or both of whom are inhabitants or residents in such county or town respectively;" with more specific provisions as to publication of banns and consent of parents and guardians, and a further provision that any justice, minister or other person offending

against this act shall suffer a penalty, and be "forever after disabled to join persons in marriage," and be also liable to an action by the parent or guardian. 1 Prov. Laws, 209, 210. Anc. Chart. 283.

By the Prov. St. of 1716-17 (3 Geo. I.) c. 16, after reciting in the preamble the principal passage above quoted from the act of 1695-6, it is enacted that "the power granted ministers to join persons together in marriage be hereby enlarged, so as that where there shall be no settled ordained minister in any town or precinct, or where the only settled ordained minister of any town or precinct is himself to be married, it shall and may be lawful in such cases for the next settled ordained minister in another town within the same county to join in marriage the minister, or inhabitants of such town or precinct destitute of such settled ordained minister, if such minister or inhabitants desire it, according to the rules prescribed by the laws of this Province for the consummating marriages;" and penalties are imposed on ministers and clerks neglecting to return or record marriages. 2 Prov. Laws, 60. Anc. Chart. 416.

So by an act of 1773 (13 Geo. III.) the authority of each minister of the Church of England within the Province to join persons in marriage, (which had previously been limited to persons belonging to the town in which the minister himself dwelt,) was not only extended to include persons usually worshipping with him and whose ministerial taxes he had a right by law to receive, although not belonging to the same town; but it was enacted that "where any minister of the Church of England is himself to be married, or where such minister shall be removed by death or otherwise, so that the religious society of Christians in which he presided shall be destitute of a minister, it shall be lawful in such cases for the next minister within the Province of the same denomination to join in marriage the minister, or any of the people constituting such religious society who may lawfully enter into such a relation." Mass. Perpetual Laws (Supplts. to ed. 1759) 632. Anc. Chart. 679.

These statutes plainly signify that by the law of the Province even a minister, authorized to solemnize marriages between other persons, could not marry himself.

The only other statutes of the Province which have come to our notice are one of 1727 (1 Geo. II.) providing for the publication of banns of persons residing in places where there was no town clerk, and one of 1763 (3 Geo. III.) concerning the powers of ministers whose parishes were made out of two or more adjacent towns. 2 Prov. Laws, 464. Mass. Perpetual Laws (Supplts. to ed. 1759) 444. Anc. Chart. 462, 655.

The Province laws on this subject remained in force until after our Revolution; and it was before they had been changed by any statute of the Commonwealth that the marriage took place, the validity of which was brought in question in the leading case of *Milford v. Worcester*, 7 Mass. 48. In that case it appeared that in 1784 a man and a woman went together into a room where a justice of the peace happened to be, and in his presence, and before other witnesses, after producing a cer-



tificate that their intentions of marriage had been published the man declared that he took the woman as his lawful wife, and she declared that she took him as her lawful husband, and each made to the other the vows and promises usual in contracting marriages ; but upon the question whether this proceeding was directed and encouraged by the justice the evidence was conflicting. It was ruled by Mr. Justice (afterwards Chief Justice) Sewall at the trial, and held by the full court in an elaborate judgment delivered by Chief Justice Parsons, that, if the proceeding had not the sanction of the justice as a magistrate, the marriage was void, and neither the woman nor her children took the settlement of the man. The position that the marriage, though not solemnized pursuant to the statutes, was yet a lawful marriage, had between parties competent to contract marriage, and not declared void by any statute, was fully argued and considered ; and the court, while admitting the strength of that position in States the laws of which had prescribed no regulations for the celebration of marriages, was clearly of opinion that the provisions of our statutes, by necessary implication, prohibited persons from solemnizing their own marriages by any form of mutual engagement, or in the presence of any witnesses whatever.

The St. of 1786, c. 3, manifested no intention to change the law in this respect. While it expressly repealed all former laws relating to the solemnization of marriages, it substantially reënacted many of their provisions. It empowered justices of the peace within their counties, and stated and ordained ministers within their towns or parishes, to solemnize marriages ; provided that, when any such minister was himself to be married, it should be lawful for any other such minister within the same county to marry him ; required "all persons desiring to be joined in marriage" to have their intention published, and to "produce to the justice or minister who shall be desired to marry them" a certificate of such publishment ; obliged justices and ministers to keep records and make returns of the marriages solemnized by them ; and made persons illegally solemnizing marriages, or neglecting to make returns, subject to penalties, and to be thereafter disqualified from joining persons in marriage.

It also contained a new provision declaring marriages which had been or should be had and solemnized among Quakers or Friends, in the manner and form used and practised in their societies, to be good and valid in law, and requiring the clerk or keeper of the records of the meeting at which such marriages should be had and solemnized to make returns thereof. St. 1786, c. 3, § 7. This section, Chief Justice Parsons tells us, was enacted in consequence of the general opinion of lawyers that such marriages were void before. *Milford v. Worcester*, 7 Mass. 56.

The St. of 1786 (after being amended in some unimportant particulars by the Sts. of 1795, c. 7, 1817, cc. 61, 141, and 1820, c. 55) was repealed by the St. of 1834, c. 177, which contained similar provisions, but allowed resident ministers to solemnize marriages throughout the Commonwealth, and therefore omitted as unnecessary the specific pro-

vision of former statutes as to the marriage of ministers, and also declared — thereby clearly implying that some solemnization beyond the mere contract of the parties was considered essential — that “all marriages, between persons who might lawfully enter into that relation, heretofore solemnized by any justice or minister, be and they hereby are confirmed and made valid in law, although such justice or minister may have exceeded his authority or jurisdiction.”

In the Rev. Sts. c. 75, the provisions of the previous statutes are substantially reënacted, and the following section [§ 24] is added: “No marriage, solemnized before any person professing to be a justice of the peace, or a minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, on account of any want of jurisdiction or authority in such supposed justice or minister, or on account of any omission or informality in the manner of entering the intention of marriage, or in the publication of the banns; provided, that the marriage be in other respects lawful, and be consummated with a full belief, on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.” Rev. Sts. c. 75, § 24.

The object of this section, as declared in the Report of the Commissioners who framed it, was to adopt the principle stated in *Milford v. Worcester*, that a marriage would be lawful, if solemnized before a justice or minister, although without publication of the banns and without the consent of parents or guardians; and to extend that principle so as to prevent marriages from being invalidated on account of some defect, not known or suspected by either party, in the ordination of the minister or the commission of the justice in whose presence the marriage ceremony was performed. That the Commissioners understood the presence of some person, being or believed to be a magistrate or minister, to be necessary to the validity of every marriage of persons other than Quakers in this Commonwealth, clearly appears by their concluding sentence: “The essence of the contract is the assent of the parties; and if this assent is formally and solemnly given in the presence of one who is acting as a justice or minister, and who is honestly believed to be qualified as such, it furnishes all the security against fraud and surprise, which the law was designed to provide for.”

The existing laws upon the subject are mostly contained in the Gen. Sts. c. 106; and the only modification since the Rev. Sts. that is worthy of notice is that by which, where the fact of marriage is required to be proved before any court, evidence of the admission of that fact by the defendant, or of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence, is made competent. Sts. 1840, c. 84; 1841, c. 20. Gen. Sts. c. 106, § 22. Evidence of the kind here mentioned is simply made competent, not controlling when the whole truth appears.

Under all changes in the form of the statutes it has always been assumed in this Commonwealth, and in the State of Maine, which was originally a part thereof, that (except in the single case of Quakers, or



Friends, whose marriages are made valid by a special provision limited to that sect, and, though not solemnized by any magistrate or minister, are witnessed, recorded, and returned by the principal officer of the meeting at which the ceremony is performed) a marriage which is shown not to have been solemnized before any third person, acting or believed by either of the parties to be acting as a magistrate or minister, is not lawful or valid for any purpose. *Medway v. Needham*, 16 Mass. 157, 159. *Commonwealth v. Spooner*, 1 Pick. 235. *Meyers v. Pope*, 110 Mass. 314, 316. *Thompson v. Thompson*, 114 Mass. 566, 567. St. 1879, c. 116. *Brunswick v. Litchfield*, 2 Greenl. 28. *Ligonia v. Buxton*, 2 Greenl. 102. *State v. Hodgskins*, 19 Maine, 155. *State v. Bowe*, 61 Maine, 171, 177. See also *Dunbarton v. Franklin*, 19 N.H. 257, 266; *Northfield v. Plymouth*, 20 Vt. 582, 591; *Goshen v. Stonington*, 4 Conn. 209, 219; *Bashaw v. State*, 1 Yerger, 177; *Dennison v. Dennison*, 35 Md. 361.

It is proper, however, to notice more particularly the Massachusetts cases, on which the defendant's counsel relied.

The case decided by the Superior Court of Judicature of the Province in 1758, and cited in Quincy's Reports, 29, note, appears by the record there referred to, to have been as follows: Flora, a negro woman, was indicted on the Prov. St. of 1696 (8 W. III.,) c. 11, "to prevent the destroying and murdering of bastard children," which had this preamble: "Whereas many lewd women that have been delivered of bastard children, to avoid their shame and escape punishment, do secretly bury or conceal the death of their children, and after, if the child be found dead, the said women do allege that the said child was born dead, whereas it falleth out sometimes (though hardly it is to be proved) that the said child or children were murdered by the said women their lewd mothers, or by their assent or procurement," and which therefore enacted that any woman who should be delivered of a child "which, if it were born alive, should by law be a bastard," and endeavor to conceal the death thereof, whether it were born alive or not, should suffer death as in case of murder, unless she could prove that the child was born dead. 1 Prov. Laws, 255. Anc. Chart. 293. The indictment alleged, in the usual form of an indictment for murder, that the defendant threw her child alive into a vault and immersed it in the water and excrements therein, and thereby drowned and suffocated it. The jury, by special verdict, found "that the said Flora is and from her nativity has been a negro slave; that she was never married according to any of the forms prescribed by the laws of this land, but that the person supposed to be the father of the said child was also a slave, and had kept her company with her master's consent for above a year and a half before that she was delivered alone of the female child mentioned in the indictment, and thrust the same child into the vault and under the excrements and water, and that the same child was taken out dead therefrom, and that, by means of her so immersing the said child and concealing the death thereof, it cannot be known whether the said child was born dead or alive;" and the jury found the defendant

guilty or not guilty, according to the opinion of the court upon the question whether “the said female child, had it been born alive, would have been a bastard, within the meaning and design of” the statute on which the indictment was founded. “After mature advisement upon the said verdict, the court are of opinion that the said Flora is not guilty.” Flora’s case, Rec. 1758, fol. 295. We have no report of the grounds of that opinion; but it may well be that the court thought that so highly penal a statute, changing the ordinary rule as to burden of proof in criminal cases, should be strictly construed, and that the case was not within the evil which it was intended to prevent, as expressed in the preamble.

In *Parton v. Hervey*, 1 Gray, 119, it was decided, 1st, that the age of consent in this Commonwealth, as by the common law of England, was fourteen in males and twelve in females; and 2d, that the Prov. St. of 1695–6 (7 W. III.) c. 2, the Sts. of 1786, c. 3, and 1834, c. 177, and the Rev. Sts. c. 75, §§ 15, 19, prohibiting justices and ministers, under a penalty, from solemnizing marriages of males under twenty-one or of females under eighteen, without the consent of their parents or guardians, did not make void the marriage of a girl thirteen years old, solemnized by a justice or minister without such consent. The decision on the first point finds additional and conclusive support in the Prov. St. of 1694–5 (6 W. & M.), c. 5, § 5, which defined the age of consent to be in “the man fourteen years of age, the woman twelve.” 1 Prov. Laws, 172. Anc. Chart. 278. 2 Dane Ab. 301. The decision on the second point was in exact accordance with the statement of Chief Justice Parsons in *Milford v. Worcester*, referred to in the Commissioners’ Report on the Revised Statutes, as already mentioned, that “when a justice or minister shall solemnize a marriage between parties who may lawfully marry, although without publication of the banns of marriage, and without the consent of the parents or guardians, such marriage would unquestionably be lawful, although the officer would incur the penalty of fifty pounds for a breach of his duty.” 7 Mass. 54, 55. The general statement of Mr. Justice Bigelow in the course of his discussion of this point — that, “in the absence of any provision declaring marriages, not celebrated in the prescribed manner, or between parties of certain ages, absolutely void, it is held that all marriages, regularly made according to the common law, are valid and binding, although had in violation of the specific regulations imposed by statute” — evidently had regard to the effect of specific regulations as to the publication of banns or the consent of parents, and not to the broader question, which was not before him, whether any presence of a third person was necessary. If the learned judge had intended to cast any doubt on the adjudication of that question in *Milford v. Worcester*, he would hardly have referred, as he did, to that case as supporting his statement. 1 Gray, 122.

In *Meyers v. Pope*, 110 Mass. 314, there was evidence that the parties went before a person whom they supposed to be a justice of the peace of the county, with the intent on the part of both to contract marriage



before him; that in his presence and hearing the man said that the woman was his wife; and that they afterwards cohabited together, believing themselves to have been then and thereby lawfully married. The extent of the decision, as stated by Chief Justice Chapman, was that the provision of the Rev. Sts. c. 75, § 24, and the Gen. Sts. c. 106, § 20, already quoted, (by which the law as declared in *Milford v. Worcester*, has been so far modified as to make a marriage before a justice or minister, believed by either of the parties to be authorized, as valid as if he were in fact authorized to solemnize the marriage,) should by a liberal construction be held to include a case “where the parties go before a magistrate or minister, make a marriage contract in some form in his presence, in the belief that he sanctions and assents to it in his official capacity, and cohabit as husband and wife afterwards, believing that they are legally married, though the magistrate understands the matter differently, and does not intend to act officially in the matter.” 110 Mass. 316.

The presence of a person officiating, or at least believed to be officiating, as a justice or minister being (except in the case of Quakers) clearly required, according to a long course of legislative action and of judicial opinion, to constitute a valid marriage in this Commonwealth, it would be superfluous to examine the English decisions, or the cases cited at the argument showing that a different rule prevails in some other parts of the Union. Whether it is wise and expedient so to change the law of Massachusetts as to allow an act, which so deeply affects the relations and rights of the contracting parties and their offspring, to become binding in law by the mere private contract of the parties, without going before any one as a magistrate or minister, is a matter for legislative, and not for judicial consideration.

In the case before us, it appearing from the undisputed facts that, in the ceremony performed by the defendant and the woman with whom he has since cohabited, no third person participated or was understood or expected to participate in any way, and no civil magistrate or minister of the gospel, nor any person believed to be such, was present, and neither party was a Friend, or Quaker, it was rightly ruled in the Superior Court that no lawful or valid marriage between the parties had taken place.

But it does not follow that the conviction was warranted by the evidence before the jury. *Milford v. Worcester*, 7 Mass. 57. Sedgwick, J., in *Mangue v. Mangue*, 1 Mass. 240, 242. To support an indictment against a man for adultery, it is sufficient to prove sexual connection between him and the wife of another man. *Commonwealth v. Elwells*, 2 Met. 190. To support an indictment for bigamy or polygamy, it is sufficient to prove that the defendant, being at the time lawfully married to one person, has married another. *Commonwealth v. Mash*, 7 Met. 472. *Reynolds v. United States*, 98 U.S. 145. But to support this indictment on the Gen. Sts. c. 165, § 6, it is necessary to prove not only that a man and a woman, “not being married to each other,” “cohabited together,” but that they so cohabited “lewdly and lascivi-

ously," — implying an evil intent, which cannot be inferred from the mere fact (such as was proved at the trial) of cohabitation under an honest, though mistaken, belief that the parties were lawfully married to each other. *Commonwealth v. Hunt*, 4 Cush. 49. If there were evidence that the cohabitation was under such circumstances as to create a common scandal, or tend to corrupt the public morals, the case might be different. See *Commonwealth v. Calef*, 10 Mass. 153; *Grisham v. State*, 2 Yerger, 589; *State v. Moore*, 1 Swan, 136.

*Verdict set aside.*

## LEGISLATION UNDER THE COMMONWEALTH.

### CHAPTER 69 OF ACTS OF 1785.

#### AN ACT FOR REGULATING MARRIAGE AND DIVORCE.

SECTION 1. *BE it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That no man or woman shall intermarry within the degrees hereafter named, that is to say:

No man shall marry his mother, grandmother, daughter, son's daughter, daughter's daughter, step-mother, grandfather's wife, son's wife, son's son's wife, daughter's son's wife, wife's mother, wife's grandmother, wife's daughter, wife's son's daughter, wife's daughter's daughter, sister, brother's daughter, sister's daughter, father's sister, mother's sister.

No woman shall marry her father, grandfather, son, son's son, daughter's son, step-father, grandmother's husband, daughter's husband, son's daughter's husband, daughter's daughter's husband, husband's father, husband's grandfather, husband's son, husband's son's son, husband's daughter's son, brother, brother's son, sister's son, father's brother, mother's brother.

And if any man or woman shall intermarry within the degrees aforesaid, every such marriage shall be deemed, taken and adjudged incestuous, and shall be null and void; and the issue of all such incestuous marriages shall be deemed, taken and adjudged illegitimate, and be subjected to all the legal disabilities of such issue.

SECT. 2. *And be it further enacted by the authority aforesaid,* That all marriages, where either of the parties shall have a former wife or husband living at the time of such marriage, shall be absolutely void, and no dower shall be assigned any widow in consequence of such marriage; and the issue thereof shall be deemed, taken and adjudged illegitimate, and be subject to all the legal disabilities of such issue.



## CHAPTER 3 OF ACTS OF 1786.

## AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That every Justice of the Peace, within the county where he resides, and every stated and ordained minister of the gospel in the town, district, parish or plantation, where he resides, shall be and hereby is authorized and empowered to solemnize marriages between persons that may lawfully enter into that relation, when one or both of the persons to be married, belong to, or are residents in the county where such justice resides, or one or both of them are inhabitants of, or residents in the town, district, parish, or plantation where such minister resides.

SECT. 2. *And be it further enacted by the authority aforesaid,* That when any settled and ordained minister of the gospel is himself to be married, it shall be lawful for any other such minister within the same county, to marry the said minister. And also, when any religious society shall be destitute of a settled and ordained minister of the gospel, in case there shall not be such a minister within the town, district or plantation in which such religious society is, it shall be lawful for any such minister, within the same county, to join any person of such town, district or plantation, in marriage: *Provided* such marriage be solemnized in the town, district or plantation where one of the parties to be married shall reside.

SECT. 3. *And be it further enacted by the authority aforesaid,* That all persons desiring to be joined in marriage shall have such their intentions published at three public religious meetings, on different days, at three days' distance exclusively at least from each other, in the town or district, wherein they respectively dwell, or shall have their intentions of marriage posted up by the clerk of such town or district, by the space of fourteen days, in some public place, within the same town or district, fairly written, and shall also produce to the justice or minister, who shall be desired to marry them, a certificate of such publishment, under the hand of the clerk of such town or district respectively; and also, that the intention of marriage hath been entered with him fourteen days, prior to the date of such certificate; and where a male, under twenty one years, or a female under eighteen years of age, is to be married, the consent of the parent, guardian or other person, whose immediate care and government such party is under, if within the Commonwealth, shall be first had to such marriage. And in case the parties or either of them live in a town, district or place where there shall be no clerk, then publishment shall be made in the town or district next adjoining, in manner aforesaid, and a certificate from the clerk of the same town or district, of such publishment, and of the entry of their intentions of marriage as aforesaid, shall be produced as aforesaid, previous to their marriage. *Provided,* That in regard to any plantation in the counties of Cumberland and Lincoln, where the parties, not under the respective ages aforesaid, shall have been inhabitants for the space of twelve months, and shall live twenty miles' distant from such next adjoining town or district, any justice or ordained minister belonging to this Commonwealth, may join them in marriage without such certificate.

SECT. 4. *And be it further enacted by the authority aforesaid,* That if, at any time, the banns of matrimony betwixt any persons shall be forbidden, and the reasons thereof assigned, in writing, by the person so forbidding the same, left with the town or district clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall have been duly inquired into, and determined before two justices of the same county, *quorum unus*: *Provided*, the person forbidding the banns shall, within seven days after filing the reasons as aforesaid, apply unto two justices as aforesaid, and procure their determination thereon; unless the said justices shall certify unto the said clerk, that a further time is necessary for their determination on the reasons filed; in which case the clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the justices shall sooner determine; according to whose determination, the clerk shall govern himself herein; and if the said justices shall determine, that the reasons assigned by the person forbidding the said banns, were not supported by the laws of the Commonwealth, then the person so forbidding shall pay all the cost that may have arisen in consequence of such objection; and the said justices shall make up judgment and issue execution accordingly.

SECT. 5. *And be it further enacted by the authority aforesaid,* That if any person shall deface or pull down any publishment posted up, in writing, as aforesaid, before the expiration of the said fourteen days, he shall forfeit and pay the sum of twenty shillings, to the use of the town; and if unable to pay the said fine, may be set in the stocks for the space of one hour. And if any Justice of the Peace or minister shall, otherwise than is expressly allowed and authorized by this Act, join any persons in marriage, they shall severally forfeit and pay the sum of fifty pounds, two third parts thereof to and for the use of the county wherein the offence may be committed, and the residue to the prosecutor, to be sued for and recovered in the Court of Common Pleas, within the same county, by the treasurer thereof, who is hereby enjoined, upon due information thereof, to prosecute and sue for the said penalty, without delay, or by the parent, guardian or other person under whose immediate care and government either of the parties were at the time of such marriage; and every justice or minister, against whom such recovery shall be had, is hereby forbidden from joining persons in marriage forever after. And in case a person forbid as aforesaid, or any other person whatever, not authorized and empowered to solemnize marriages by this Act, shall join any persons in marriage, and be convicted thereof in the Supreme Judicial Court, upon presentment or indictment, he shall stand one hour in the pillory, and be subjected to pay a fine, at the discretion of the court, to the use of the Commonwealth, not exceeding one hundred pounds, nor less than eighty pounds.

SECT. 6. *And be it further enacted,* That every justice and minister shall make and keep a particular record of all marriages solemnized before them respectively; and in the month of April, yearly, and every year, shall make a return to the clerk of the town, district or plantation in which he lives, certifying the names (both Christian names and surnames) of all the persons who have been by them respectively joined together in marriage within the year then last past, if any such have been by them so joined together.

[And if it shall so happen, that any one or more of the said justices or ministers shall not have joined together in marriage any persons during the course of the year then last past, it shall be the duty of such justice or minister also to certify to the said town-clerk, in writing, under his hand, that he has not joined any persons in marriage within the course of the said year:] *Repealed 1795, ch. 7.*

And if any justice or minister shall neglect to make such return, within the month of April, annually, the clerk of the town, district or plantation, where such delinquent justice or minister lives, shall, without



delay, certify such neglect to the clerk of the Court of General Sessions of the Peace of the same county, who shall lay the same before the said court at their next session; and the person so neglecting shall be cited to appear before the said court, to answer for such neglect; and if no sufficient reason shall be assigned therefor, he shall be considered and adjudged disqualified for joining persons in marriage for a term of time, not exceeding ten years, at the discretion of the justices of the said court. And every town and district clerk shall duly and seasonably record all marriages, so certified to him, as aforesaid:

[And shall also return a list or copy thereof to the clerk of the Court of General Sessions of the Peace of the same county, some time in the month of May, yearly and every year, to be there recorded, upon penalty of forfeiting twenty shillings for each neglect: And it shall be the duty of each clerk of the sessions to prosecute for every such neglect, in the county to which he belongs. And every clerk of the sessions shall record all such returns of marriages at large in a book to be kept for that purpose, and no other, under the same penalty for each neglect.] *Repealed 1795, ch. 41, § 1.*

SECT. 7. *And be it further enacted*, That no person by this Act authorized to marry, shall join in marriage any white person with any negro, indian or mulatto, on penalty of the sum of fifty pounds, two third parts thereof to the use of the county wherein such offence shall be committed, and the residue to the prosecutor, to be recovered by the treasurer of the same county, in manner as aforesaid; and all such marriages shall be absolutely null and void.

SECT. 8. *And be it further enacted by the authority aforesaid*, That any marriages which have been or hereafter may be had and solemnized, among the people called Quakers, or Friends, in the manner and form used and practised in their societies, shall be good and valid in law, anything in this Act to the contrary notwithstanding: And the clerk, or keeper of the records of the meeting wherein such marriage shall be had and solemnized, shall once a year make a certificate, under his hand, of all marriages had and solemnized in the society, or meeting, to which he belongs, and shall deliver the same to the clerk of the Court of General Sessions of the Peace of the county wherein the marriages have been had and solemnized, under the penalty of twenty shillings for each neglect. All fines, not particularly appropriated, shall be to the use of the prosecutor. And all former laws relating to the solemnization of marriages, are hereby repealed.

This Act to be in force from and after the last day of December, one thousand seven hundred and eighty-six, and not sooner. [*June 22, 1786.*]

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## CHAPTER 7 OF ACTS OF 1795.

AN ACT REPEALING A CERTAIN CLAUSE OF AN ACT, ENTITLED, "AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES."

WHEREAS in and by the Act, entitled, as aforesaid, among other things, the following clause is enacted, viz. "And if it shall so happen, that any one or more of the said justices or ministers shall not have joined together in marriage any person during the course of the year then last past, it shall be the duty of such justice or minister also to certify to the said town-clerk, in writing, under his hand, that he has not joined any persons in marriage within the course of the said year;" and a compliance with the said clause is found inconvenient:

*Be it therefore enacted by the Senate and House of Representatives in General Court Assembled, and by the authority of the same*, That the before recited clause be and it is hereby repealed. [*June 15, 1795.*]

## CHAPTER 41 OF ACTS OF 1795.

## FEES FOR MARRIAGES.

To the town-clerk for publishing the banns of matrimony, recording the same, giving a certificate of the publishment, and recording the marriage upon receiving the justice's or minister's certificate thereof, fifty cents, to be paid by the man published, on receiving a certificate of the publishment. And the town-clerk shall not in future be holden to return certificates of marriages to the clerks of the Courts of General Sessions of the Peace, nor clerks last mentioned to record the same. To every minister or Justice of the Peace, who shall lawfully solemnize a marriage, and certify the same, one dollar and twenty-five cents. To the town-clerk for recording births and deaths, eight cents each. For a certificate of a birth or death, ten cents. For a subpoena for one or more witnesses, ten cents.

## CHAPTER 69 OF ACTS OF 1795.

## AN ACT FOR RECORDING BIRTHS AND DEATHS BY THE CLERKS OF TOWNS AND DISTRICTS.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That it shall be the duty of every town-clerk and every district-clerk, within this Commonwealth, to record all births and deaths which shall happen within his town or district and come to his knowledge, together with the time of such birth or death, and the names of his or her parents, if known, for the fees allowed, by law, to be paid by his town or district.

SECT. 2. *And be it further enacted,* That it shall be the duty of parents to give notice to the clerk of the town or district in which they dwell, of all the births and deaths of their children; and it shall be the duty of every householder to give notice of every birth and death which may happen in his house; and of the eldest person next of kin to give such notice of the death of his kindred; and it shall be the duty of the master or keeper of any alms-house, work-house or prison, and of the master or commander of any ship or vessel, to give notice of every birth and death which may happen in the house or vessel under his care or charge, to the clerk of the town or district in which such event shall happen: And in case any person, whose duty it shall be, by virtue of this Act, to give notice as aforesaid, shall neglect to perform the same for the space of six months after the birth or death shall happen, the person so neglecting shall pay a fine of one dollar, to be recovered, with costs of suit, on complaint before any Justice of the Peace for the same county, to the use of any inhabitant of the same town who shall prosecute for the same; from which judgment there shall be no appeal.

SECT. 3. *And be it further enacted,* That this Act shall be in force on and after the first day of September next; and that an Act passed *Anno Domini* one thousand six hundred and ninety-two, for registering births and deaths, shall be and hereby is repealed, on and after that day. [Feb. 26, 1796.]



## CHAPTER 61 OF ACTS OF 1817.

## AN ACT EXPLANATORY OF AN ACT, ENTITLED, "AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES."

*BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That any marriage which has been, or which shall hereafter be solemnized by any minister or Justice of the Peace, agreeably to the provisions of the Act, entitled, "An Act for the orderly solemnization of Marriages," in any plantation, which at the time of passing said Act was included within the counties of Cumberland or Lincoln, shall be deemed and taken to be legal, to all intents and purposes, as if the said counties, or either of them, had not been divided. And every Justice of the Peace, or minister, who shall hereafter solemnize any such marriage, shall transmit a certificate thereof to the clerk of the Circuit Court of Common Pleas for the county in which said plantation is situated, to be recorded by said clerk, in a book to be by him kept for that purpose. [Jan. 27, 1818.]*

## CHAPTER 141 OF ACTS OF 1817.

## AN ACT IN EXPLANATION OF AN ACT, ENTITLED, "AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES."

*BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That all marriages (between persons who may or might lawfully enter into that relation) which have been or may hereafter be solemnized by any stated ordained minister of the gospel, in the town, parish, district, or plantation, within or over which such minister, at the time, was, or may be settled, and where one of the parties resided, or shall reside, shall be, and be considered valid in law, notwithstanding such minister, at the time, shall reside, or may have resided without the limits of the town, district, parish or plantation, within or over which he is, or was so settled. And it shall be sufficient that the certificate of any marriage, so solemnized, shall be lodged with the clerk of the town, district or plantation, within or over which such minister is so settled. [Feb. 20, 1818.]*

## CHAPTER 55 OF ACTS OF 1820.

## AN ACT IN FURTHER ADDITION TO THE ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That every stated ordained minister of the gospel shall be, and hereby is authorized and empowered to solemnize marriages between persons that may lawfully enter into that relation, when one or both of the persons to be married belong to the parish or congregation of such minister, although such person or persons shall reside without the limits of the town, parish, or district in which such minister may be settled; and such marriages may be solemnized either within the town, parish, or district wherein such minister resides, or wherein such person or persons may reside.*

SECT. 2. *Be it further enacted, That whenever any persons, who may lawfully enter into the marriage relation, shall belong to, or be resident in a town or district, in which there shall be no stated ordained minister of the gospel, of the sect or denomination to which such persons, or*

either of them belong, it shall be lawful for any settled, ordained minister, of the sect or denomination to which such persons, or either of them belong, residing in any other town or district within this Commonwealth, to solemnize marriage between such persons, within the town or district where they, or either of them reside; the certificate of which marriage shall be filed with the clerk of the town or district where such marriage shall be solemnized; and the duties of ministers and town clerks, in relation to certificates of marriage, solemnized under the provisions of this Act, and the penalties for the neglect thereof, shall be the same as are provided in the Act, entitled "An Act for the orderly solemnization of marriages." [Feb. 12, 1821.]

## CHAPTER 177 OF ACTS OF 1834.

### AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That every justice of the peace within his jurisdiction, and every minister of the Gospel within the Commonwealth, who has been ordained according to the usage of his denomination, and who is resident therein, be, and they hereby are authorized and empowered to solemnize marriages between persons who may lawfully enter into that relation, when either of the persons to be married belongs to, or is resident within the jurisdiction of said justice or minister; but all such marriages shall be solemnized in the city, town, or district in which the person solemnizing the same may reside, or within the city, town, or district in which one or both of the persons to be married may reside.

SECT. 2. *BE it further enacted,* That all persons desiring to be joined in marriage, shall have their intentions of marriage published at three public religious meetings, on different days, at three days' distance at least from each other exclusively, in the city, town, or district wherein they respectively dwell, or shall have such their intentions of marriage posted up, by the clerk of such city, town or district wherein they respectively dwell, for the space of fourteen days in some public place, within the same city, town, or district, fairly written, and shall also produce to the justice or minister, who may be desired to marry them, a certificate of such publishment under the hand of the clerk of such city, town, or district respectively, and also that the intentions of marriage have been entered with him fourteen days prior to the date of such certificate; and when a male under twenty-one years, or a female under eighteen years of age, is to be married, the consent of the parent, guardian or other person under whose immediate care or government such party is, if within the Commonwealth, shall be first had to such marriage. And in case the parties or either of them, live in a town, district, or other place where there shall be no clerk, then publishment shall be made in manner aforesaid, in a city, town, or district next adjoining, and the certificate from the clerk of such adjoining city, town, or district, of such publishment, and of the entry of their intentions of marriage as aforesaid, previous to their marriage.

SECT. 3. *BE it further enacted,* That if, at any times, the banns of matrimony between any persons shall be forbidden, and the reasons thereof, assigned in writing by the person forbidding the same, be left with the city, town, or district clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall have been duly inquired into and determined before two justices of the same county, quorum unus: *provided,* the person forbidding the banns, shall, within seven days after filing the reasons as aforesaid, apply unto two justices as aforesaid, and procure their determination thereon, unless the said justices shall certify unto the said clerk, that a further time is necessary for their determi-



nation on the reasons filed ; in which case the clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the justices shall sooner determine, according to whose determination the clerk shall govern himself herein ; and if the said justices shall determine that the reasons assigned by the person forbidding the said banns were not supported by the laws of the Commonwealth, then the person so forbidding shall pay all the cost that may have arisen in consequence of such objection, and the said justices shall make up judgment, and issue execution accordingly.

SECT. 4. *BE it further enacted*, That if any person shall deface or take down any publishment in writing, posted up as aforesaid, before the expiration of the fourteen days, he shall, upon conviction thereof, forfeit and pay a sum not less than two, or more than twenty dollars, to the use of the person who shall prosecute therefor. And if any justice of the peace, or minister, shall, otherwise than is expressly allowed and authorized by this act, join any persons in marriage, they shall, upon conviction thereof, severally forfeit and pay a sum not less than fifty, nor more than one hundred dollars, one moiety thereof to the use of the county wherein the offence may be committed, and the other moiety to the use of the person who shall prosecute therefor ; and in case any person whatever, not authorized and empowered to solemnize marriages by this act, shall join any persons in marriage, and be convicted thereof in any court of competent jurisdiction, upon presentment or indictment, he shall be imprisoned in the common jail, or confined to hard labor, for a term not exceeding six months, or pay a fine of not less than fifty, nor more than two hundred dollars, to the use of the Commonwealth, at the discretion of said court.

SECT. 5. *BE it further enacted*, That every justice and minister shall make and keep a particular record of all the marriages solemnized before them respectively ; and, in the month of April annually, shall make a return to the clerk of the city, town, or district in which he resides, of a certificate containing the Christian and surnames, and places of residence, of all the persons joined in marriage, by them respectively, within the year then last past, and also the time when, and the name of the city, town, or district, in which such marriages were respectively solemnized ; and when neither of the persons married belongs to, or is resident in the city, town, or district, in which such justice or minister resides, then such justice or minister shall also make a like return of a certificate to the clerk of the city, town, or district in which one or both of the persons married may reside, within thirty days from the solemnization of the same. And any justice or minister who shall neglect to make such returns, shall, upon conviction thereof, before any court of competent jurisdiction, in the county in which he resides, forfeit and pay for each neglect a sum of not less than twenty nor more than one hundred dollars, at the discretion of said court, one moiety thereof to the use of said county, and the other moiety to the use of the person who shall prosecute for the same ; and every city, town, or district clerk shall duly and reasonably record all marriages so certified to him as aforesaid.

SECT. 6. *BE it further enacted*, That all marriages which have been or may be solemnized among the people called quakers or friends, in the manner and form used and practised in their societies, shall be good and valid in law, anything in this act to the contrary notwithstanding. And the clerk or keeper of the records of the meeting wherein such marriages shall be solemnized, shall, in the month of April, annually, make and deliver to the clerk of the city, town, or district in which such society usually meet and worship, a certificate of all marriages solemnized therein, during the year then last past, as in the fifth section of this act is provided, under the penalty of not less than twenty nor more than one hundred dollars for each neglect, to be recovered in the manner and to the uses as in said fifth section is provided.

SECT. 7. *BE it further enacted*, That all marriages between persons who might lawfully enter into that relation, heretofore solemnized by any justice or minister, be and they hereby are confirmed and made valid in law, although such justice or minister may have exceeded his authority or jurisdiction.

SECT. 8. *BE it further enacted*, That “an act for the orderly solemnization of marriages” (except the seventh section thereof,) passed June twenty-second, in the year of our Lord one thousand seven hundred and eighty-six; also “an act repealing a certain clause of an act for the orderly solemnization of marriages,” passed June fifteenth, in the year of our Lord one thousand seven hundred and ninety-five; also, “an act explanatory of an act for the orderly solemnization of marriages,” passed January twenty-seventh, in the year of our Lord one thousand eight hundred and eighteen; also an act in explanation of an act for the orderly solemnization of marriages, passed February twentieth, in the year of our Lord one thousand eight hundred and eighteen, and also “an act in further addition to the act for the orderly solemnization of marriages,” passed February twelfth, in the year of our Lord one thousand eight hundred and twenty-one, be, and they are hereby repealed: *provided, however*, that all marriages confirmed by, or solemnized in pursuance of the provisions of these acts, be ratified and confirmed.

SECT. 9. *BE it further enacted*, That no minister who has unintentionally violated the laws now in force, for the solemnization of marriages, shall be subjected to any penalty or punished for that cause.

SECT. 10. *BE it further enacted*, That the provisions of this act shall go into operation on the first day of May next. [Approved by the Governor, April 1, 1834.]

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## CHAPTER 15 OF THE REVISED STATUTES OF 1836.

### RECORD OF BIRTHS AND DEATHS. — NOTICE OF BIRTHS AND DEATHS.

SECT. 46. The town clerk shall keep a record of the births and deaths of all persons within his town, and coming to his knowledge; and he shall specify in such record the day of each birth and death, and the names of the parents of such persons, if known.

SECT. 47. Parents shall give notice to the clerk of their town of all the births and deaths of their children; and every householder shall give the like notice of every birth and death happening in his house; and the eldest person next of kin shall give such notice of the death of his kindred; and the keeper of any almshouse, workhouse, house of correction, prison or hospital, and the master or other commanding officer of any ship, shall give the like notice of every birth and death happening among the persons under his charge; and every person neglecting to give such notice, for the space of six months, after the birth or death shall have happened, shall forfeit to the use of the town a sum not exceeding five dollars.

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## CHAPTER 75 OF THE REVISED STATUTES OF 1836.

### FOR REGULATING MARRIAGES.

SECTION 1. No man shall marry his mother, grandmother, daughter, granddaughter, step-mother, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, sister, brother's daughter, sister's daughter, father's sister, or mother's sister.



SECT. 2. No woman shall marry her father, grandfather, son, grandson, step-father, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother, brother's son, sister's son, father's brother, or mother's brother.

SECT. 3. In all the cases, mentioned in the two preceding sections, in which the relationship is founded on a marriage, the prohibition shall continue in full force, notwithstanding the dissolution of such marriage by death, or by a divorce, unless the divorce be for a cause, which shows the marriage to have been originally unlawful or void.

SECT. 4. All marriages, contracted whilst either of the parties has a former wife or husband living, shall be void, unless the former marriage shall have been dissolved for some cause other than the adultery of the person contracting such second marriage.

SECT. 5. No white person shall intermarry with a negro, indian or mulatto; and no insane person or idiot shall be capable of contracting marriage.

SECT. 6. When any persons, resident in this state, shall undertake to contract a marriage, contrary to the preceding provisions of this chapter, and shall, in order to evade those provisions, and with an intention of returning to reside in this state, go into another state or country, and there have their marriage solemnized, and shall afterwards return and reside here, such marriage shall be deemed void in this state.

SECT. 7. All persons, intending to be joined in marriage, shall cause notice of their intention to be entered, fourteen days at least before their marriage, in the office of the clerk of the town in which they may respectively dwell (if within this state); and if there be no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town.

SECT. 8. The intention shall be published by the clerk, with whom the entry is made, either by posting up a written notice thereof, in some public place in the town of which he is the clerk, fourteen days at least before the marriage, or by making a public proclamation thereof, at three public religious meetings in the town, on different days; the said meetings to be not less than three days distant from each other, exclusive of the days of the publication.

SECT. 9. The clerk shall deliver to the parties a certificate, under his hand, specifying the time when notice of the intention of marriage was entered with him, and the time of the publication thereof; which certificate shall be delivered to the magistrate or minister, in whose presence the marriage is to be contracted, before he shall proceed to solemnize the same.

SECT. 10. After the intention of marriage is entered with the clerk, if any person shall forbid the banns, and shall assign his reasons therefor in writing, and leave the same with the clerk, the certificate shall not be issued, until the matter shall have been duly inquired into and determined, in the manner hereinafter mentioned; provided the person forbidding the banns shall apply to two justices of the peace and of the quorum, of the same county, and shall, within seven days after the filing of his reasons, procure their decision thereon, or produce to the clerk their certificate that a further time is necessary for the consideration thereof; in which case, the clerk shall withhold his certificate, until the expiration of such further time, unless the justices shall sooner make known their decision.

SECT. 11. The two justices, so applied to, shall proceed forthwith to give notice thereof to the persons who propose to be married, and after a full hearing of the parties, or of the person objecting to the marriage, if the others do not appear, the justices shall decide on the truth and sufficiency of the reasons assigned for forbidding the banns,

and shall certify their decision thereon to the clerk, with whom the intention of marriage was entered.

SECT. 12. If the said two justices shall certify that the objections to the marriage are true and sufficient, the clerk shall not issue any certificate of the publication of the banns; but if they shall certify that the objections are not proved, or are not sufficient, or if they shall not agree in a determination thereupon, the clerk shall forthwith issue his certificate, in the same manner as if no objection had been made thereto.

SECT. 13. If the said justices shall certify that the objections to the marriage are true and sufficient, the persons, who propose to be married, or either of them, may appeal from such decision to the court of common pleas, or the supreme judicial court, next to be held for the same county, and the determination of the court thereon shall be final in the case; and the clerk of the town shall issue, or withhold, his certificate of the publication of the banns, according to such final determination.

SECT. 14. If the objections, so made to any marriage, shall not be proved, and adjudged to be sufficient, the person making the same shall pay all the costs, that shall have been incurred on account thereof, to be taxed by the justices or the court, as the case may be, and execution therefor shall be issued accordingly.

SECT. 15. When a male, under the age of twenty-one years, or a female, under the age of eighteen years, is to be married, the magistrate or minister shall not proceed to solemnize the marriage, without the consent of the parent or guardian, having the custody of such minor, if there be any in the state competent to act.

SECT. 16. Marriages may be solemnized by any justice of the peace, in the county for which he is appointed, when either of the parties resides in the same county; and they may be solemnized throughout the state by any minister of the gospel, who has been ordained according to the usage of his denomination, and who resides within the state, and continues to preach the gospel and to perform the other functions of his office; but all such marriages shall be solemnized in the town, in which the person solemnizing them may reside, or in which one or both of the persons to be married may reside.

SECT. 17. Every justice and minister shall keep a record of all marriages solemnized before him, and in the month of April, annually, shall make a return, to the clerk of the town in which he resides, of a certificate, containing the christian and surnames, and places of residence, of all the persons who have been by him joined in marriage, within the year then last past, and also the time when, and the name of the town in which, such marriages were respectively solemnized; and when neither of the married persons belongs to or is resident in the town in which the justice or minister resides, then such justice or minister shall, within thirty days after such marriage, also return a like certificate to the clerk of the town in which one or both of the married persons may reside; and all marriages, so certified to the clerk, shall be forthwith recorded by him in a book to be kept for that purpose.

SECT. 18. Every justice of the peace and minister, who shall neglect to make such returns, shall, upon conviction thereof, forfeit for each neglect a sum, not less than twenty, nor more than one hundred dollars; one moiety thereof to the use of the county in which he resides, and the other moiety to the use of the person who shall prosecute therefor.

SECT. 19. If any justice of the peace or minister shall join any persons in marriage, contrary to the provisions of this chapter, he knowing that the marriage is not duly authorized, he shall, upon conviction thereof, forfeit a sum not less than fifty, nor more than one



hundred dollars, one moiety thereof to the use of the county where the offence is committed, and the other moiety to the use of the person who shall prosecute therefor.

SECT. 20. If any person shall undertake to join others in marriage, knowing that he is not lawfully authorized so to do, and shall be thereof convicted, upon indictment in any court of competent jurisdiction, he shall be imprisoned in the common jail, or confined to hard labor, for a term not exceeding six months, or shall pay a fine, not less than fifty, and not more than two hundred dollars.

SECT. 21. If any person shall wilfully deface or take down any written notice of the intention of marriage, posted up as before prescribed, within fourteen days after it is so posted up, he shall, upon conviction thereof, forfeit a sum not less than two, or more than twenty dollars, to the use of the person who shall prosecute therefor.

SECT. 22. The preceding regulations, so far as they relate to the manner of solemnizing marriages, shall not effect [*affect*] marriages among the people called friends or quakers, but such marriages may be solemnized, in the manner heretofore used and practised in their societies.

SECT. 23. The clerk or keeper of the records of the meeting, wherein any marriages among the said friends or quakers shall be solemnized, shall, in the month of April, annually, make and deliver to the clerk of the town in which such society usually meet and worship, a certificate, like that before prescribed to be returned by justices and ministers, of all marriages solemnized in the said meeting, within the year then last past, under the penalty of not less than twenty, nor more than one hundred dollars, for each neglect; which penalty shall be recovered in the manner, and to the uses, provided in the case of a like neglect by a justice or minister.

SECT. 24. No marriage, solemnized before any person professing to be a justice of the peace, or a minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, on account of any want of jurisdiction or authority in such supposed justice or minister, or on account of any omission or informality in the manner of entering the intention of marriage or in the publication of the banns; provided, that the marriage be in other respects lawful, and be consummated with a full belief, on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.

SECT. 25. The record of a marriage, made and kept as before prescribed, by a justice of the peace or minister, or by the clerk of any town, or a copy of any such record duly certified, shall be received, in all courts and places, as presumptive evidence of the fact of such marriage.

[NOTE.— By Chapter 146 it was provided that this revision was to take effect on and after the last day of April, 1836.]

CHAPTER 122 OF THE REVISED STATUTES OF 1836.

FEEs FOR MARRIAGES.

SECT. 11. To the town clerk, for publishing the banns of matrimony, recording the same, giving a certificate thereof, and recording the marriage upon receiving the minister's or justice's certificate thereof, fifty cents, to be paid on delivering the certificate of publishing the banns:

To every minister or justice of the peace, who shall lawfully solemnize a marriage, and certify the same, one dollar and twenty-five cents.

TOWN CLERK'S FEES.

SECT. 12. For recording births and deaths, eight cents each:

For a certificate of a birth or death, ten cents:

For copies of town records, and other documents, furnished to any person at his request, if containing less than one page, ten cents, and if containing more, at the rate of twelve cents a page.

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CHAPTER 84 OF ACTS OF 1840.

AN ACT RELATING TO THE EVIDENCE OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

Whenever, on hearing of any application for divorce, the fact of marriage is required or offered to be proved, evidence of admission of said fact by the party against whom the process is instituted, or of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence, from which said fact may be inferred, shall be received as competent evidence for consideration, whether the marriage to be proved was contracted in this Commonwealth or elsewhere.

[Approved by the Governor, March 23, 1840.]

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CHAPTER 20 OF ACTS OF 1841.

AN ACT IN ADDITION TO AN ACT RELATING TO THE EVIDENCE OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

The provisions of an act relating to the evidence of marriage, passed on the twenty-third day of March, in the year one thousand eight hundred and forty, are hereby extended to all cases where it shall become necessary to prove the fact of marriage, in any hearing before any court in this Commonwealth.

[Approved by the Governor, Feb. 16, 1841.]



## CHAPTER 95 OF ACTS OF 1842.

AN ACT RELATING TO THE REGISTRY AND RETURNS OF BIRTHS,  
MARRIAGES, AND DEATHS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. The clerks of the several towns and cities in the Commonwealth shall, annually, in the month of May, transmit to the Secretary of the Commonwealth a certified copy of their record of the births, marriages, and deaths of all persons within their respective towns and cities, which may come to their knowledge; shall state the number of births and marriages, and the number of deaths, with the name, sex, age, (and if an adult male, the occupation,) and the names of the diseases of which all persons have died, or are supposed to have died, together with the cause or causes of the death of all such deceased persons, so far as they may be able to obtain a knowledge of the same from physicans or others; and any clerk who shall neglect to make such return, shall be liable to a penalty of ten dollars, to be recovered for the use of any town or city where such neglect shall be proved to have existed.

SECT. 2. The Secretary of the Commonwealth shall prepare and furnish to the clerks of the several towns and cities in this Commonwealth, blank forms of returns, as hereinbefore specified, and shall accompany the same with such instructions and explanations as may be necessary and useful; and he shall receive said returns, and prepare therefrom such tabular results as will render them of practical utility, and shall make report thereof annually to the legislature, and generally shall do whatever may be required to carry into effect the objects of this act, and of the several provisions of the Revised Statutes not inconsistent with this act.

[Approved by the Governor, March 3, 1842.]

## CHAPTER 5 OF ACTS OF 1843.

AN ACT RELATING TO MARRIAGES BETWEEN INDIVIDUALS OF CERTAIN  
RACES.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

So much of the fifth section of the seventy-fifth chapter and of the first section of the seventy-sixth chapter of the Revised Statutes, as relates to marriages between white persons and negroes, indians and mulattoes, is hereby repealed.

[Approved by the Governor, Feb. 25, 1843.]

## CHAPTER 159 OF ACTS OF 1844.

AN ACT RELATING TO THE REGISTRY AND RETURNS OF BIRTHS,  
MARRIAGES, AND DEATHS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. The clerks of the several cities and towns in this Commonwealth shall, annually, in the month of June, transmit to the secretary of the Commonwealth a certified copy of their record of births, marriages, and deaths, which have occurred within their respective cities and towns during the year next preceding the first day of said month.

The births shall be numbered and recorded in the order in which they are received by the clerk. The record of births shall state in separate columns the date of the birth, the place of birth, the name of the child, (if it have any,) the sex of the child, name and surname of one or both of the parents, occupation of the father, residence of the parents, and the time when the record was made.

The marriages shall be numbered and recorded in the order in which they are received by the clerk. The record of marriages shall state in separate columns, the date of the marriage, the place of the marriage, the name, residence, and official station of the person by whom married, the names and surnames of the parties, the residence of each, the age of each, the condition of each, (whether single or widowed,) the occupation, names of the parents, and the time when the record was made.

The deaths shall be numbered and recorded in the order in which they are received by the clerk. The record of deaths shall state in separate columns the date of the death, the name and surname of the deceased, the sex, condition, (whether single or married,) age, occupation, place of death, place of birth, names of the parents, disease or causes of death, and the time when the record was made.

SECT. 2. The school committee of each city or town shall, annually, in the month of May, ascertain from actual inquiry or otherwise, all the births which have happened within such city or town, during the year next preceding the first day of said May, together with the facts concerning births required by the first section of this act, and shall make an accurate return thereof to the clerk of such city or town, on or before the last day of said May; and the said school committee, or other person authorized by them to make such returns, shall be entitled to receive from the treasury of such city or town, five cents for each and every birth so returned.

SECT. 3. Every justice, minister, and clerk, or keeper of the records of the meeting wherein any marriages among the Friends or Quakers shall be solemnized, shall make a record of each marriage solemnized before him, together with all the facts relating to marriages required by the first section of this act; and each such justice, minister, clerk, or keeper shall, between the first and tenth days of each month, return a copy of the record for the month next preceding, to the clerk of the city or town in which the marriage was solemnized; and every person as aforesaid, who shall neglect to make the returns required by this section, shall be liable to the penalty provided in the eighteenth section of the seventy-fifth chapter of the Revised Statutes.

SECT. 4. Each sexton or other person, having the charge of any burial ground in this Commonwealth, shall, on or before the tenth day of each month, make returns of all the facts required by the first section of this act, connected with the death of any person whose burial he may have superintended during the month next preceding, to the clerk of



the city or town in which such deceased person resided at the time of his death. And such sexton, or other person, shall be entitled to receive from the treasury of the city or town to which the return is made, five cents for the return of each death made agreeably to the provisions of this act.

SECT. 5. The clerk of each city or town shall be entitled to receive from the treasury of such city or town, eight cents for the record of each birth and death: *provided* such clerk shall comply with this act in all respects.

SECT. 6. It shall be the duty of the clerks of the several cities and towns, to make such distribution of blank forms of returns as shall be designated by the secretary of the Commonwealth.

SECT. 7. The secretary of the Commonwealth shall prepare and furnish to the clerks of the several cities and towns in this Commonwealth, blank books of suitable quality and size, to be used as books of record, according to the provisions of this act, and also blank forms of returns, as herein before specified, and shall accompany the same with such instructions and explanations as may be necessary and useful; and he shall receive said returns, and prepare therefrom such tabular results, as will render them of practical utility, and shall make report thereof annually to the legislature, and generally shall do whatever may be required to carry into effect the provisions of this act.

SECT. 8. Any clerk who shall neglect to comply with the requirements of this act, shall be liable to a penalty of ten dollars, to be recovered for the use of any city or town where such neglect shall be proved to have existed.

SECT. 9. An act entitled "an act relating to the registry of births, marriages, and deaths," passed on the third day of March, in the year one thousand eight hundred and forty-two, is hereby repealed.

SECT. 10. This act shall take effect from and after its passage.

[Approved by the Governor, March 16, 1844.]

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## CHAPTER 222 OF ACTS OF 1845.

### AN ACT CONCERNING MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

The validity of any marriage in consequence of the incapacity of either of the parties thereto, to contract the same by reason of insanity or idiocy, shall not be called in question upon the trial of any collateral issue, before any of the courts of this Commonwealth, — but only in a process duly instituted, for the purpose of determining the validity thereof, during the life-time of both the parties thereto.

[Approved by the Governor, March 25, 1845.]

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## CHAPTER 202 OF ACTS OF 1849.<sup>1</sup>

### AN ACT RELATING TO THE REGISTRATION OF BIRTHS, MARRIAGES, AND DEATHS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Town and city clerks are hereby authorized and required to obtain, record, and index the information concerning births, mar-

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<sup>1</sup> Chapter 197 of Acts of 1846 relates to "Marriage and Divorce" but does not refer to the recording of marriages, nor the issuing of marriage licenses. — W. H. W.

riages, and deaths, now required by law. Towns and cities, containing more than ten thousand inhabitants, may choose a person, other than the town or city clerk, to be town or city registrar, to perform this duty instead of the town or city clerk; and said registrar shall take an oath faithfully to perform the duties of the office.

SECT. 2. The fees of the clerk and registrar, for obtaining, recording, and indexing the information required by this act, shall be as follows: For each birth, twenty cents; for each intention of marriage, including the certificate to the parties, fifty cents; for each marriage solemnized, ten cents; for each death, five cents; and the undertaker shall be allowed ten cents for information concerning each death which he returns to the clerk or registrar; said fees for births, deaths, and marriages solemnized, shall be paid by the town; and for intentions of marriage, by the parties having such intentions; *provided, however*, that the aggregate compensation, allowed to any clerk or registrar, may be limited by any town or city containing over ten thousand inhabitants, but, in no case, so as to prevent the full execution of this act.

SECT. 3. Any undertaker, or other person, having the superintendence of the burial of any deceased person, who shall neglect or refuse to obtain and return the information required by this act, concerning each person deceased, whose burial shall come under his superintendence, shall be liable to a penalty not exceeding twenty dollars for each neglect, and, if an undertaker, to be deprived of his office. And every clerk or registrar, who wilfully neglects or refuses to perform the duties herein prescribed, shall be liable to a penalty of not less than twenty, nor more than one hundred dollars, for each neglect or refusal. All penalties and forfeitures, under this act, may be recovered by any person who shall sue for the same, one-half thereof to the use of said complainant, and the other half to the use of the town or city in which the forfeiture shall have been incurred.

SECT. 4. The returns required to be made on the first day of February, in the year one thousand eight hundred and fifty, shall include the births, deaths, and marriages, from the first day of May, in the year one thousand eight hundred and forty-eight, to said day of return.

SECT. 5. Copies of records, in the several towns and cities, of the births, marriages, and deaths, which occurred during the next preceding year, ending December thirty-first, shall be returned to the Secretary of State, annually, on or before the first day of February. The blank forms of said returns shall be printed on paper of uniform size; and those for each year, when filled out and returned to the office of the Secretary of State, shall be bound together, in one or more volumes, and shall be furnished with an index. Blank books for indexes to the town registrars, [*sic*] shall be prepared by the Secretary of State, and furnished to the several towns and cities at the expense of the Commonwealth.

SECT. 6. All parts of acts inconsistent with the provisions of this act are hereby repealed.

[Approved by the Governor, May 2, 1849.]

## CHAPTER 121 OF ACTS OF 1850.

### AN ACT RELATING TO BANNES OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. All persons intending to be joined in marriage shall cause notice of their intention to be entered before their marriage, in the office of the clerk, registrar, or other officer appointed for such pur-



pose, of the city or town in which they may respectively dwell, (if within the State;) and if there be no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town.

SECT. 2. The clerk shall deliver to the parties a certificate under his hand, specifying the time when notice of the intention of marriage was entered with him, which certificate shall be delivered to the minister or magistrate, in whose presence the marriage is to be contracted, before he shall proceed to solemnize the same.

SECT. 3. Whenever parties living in this Commonwealth shall go out of it for the purpose of having a marriage solemnized between them in another state, and a marriage shall be so solemnized, and they shall return to dwell here, they are hereby required to file a certificate or declaration of their marriage, including the facts concerning marriages now required by law, with the clerk or registrar of the town or city where either of them lived at the time, within seven days after their return, under a penalty of ten dollars, to be recovered in the manner and to the uses specified in the third section of the "act relating to the registration of births, marriages, and deaths," passed on the second day of May, in the year eighteen hundred and forty-nine.

SECT. 4. The fee of the clerk or registrar, for making the record of such marriage, shall be fifty cents, to be paid by the said parties.

SECT. 5. So much of the seventy-fifth chapter of the Revised Statutes as is inconsistent with this act, is hereby repealed; *provided, nevertheless*, that nothing herein contained shall be so construed as to modify or alter the provisions of the twenty-second section of the said seventy-fifth chapter, which relates to marriages among the people called Friends or Quakers, but the same shall remain in full force.

[Approved by the Governor, March 28, 1850.]

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## CHAPTER 335 OF ACTS OF 1853.

### AN ACT IN ADDITION TO AN ACT RELATING TO BANNS OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. No clerk or registrar of any city or town shall issue any certificate of intention of marriage to any male person under the age of twenty-one years, or to any female person under the age of eighteen years, except it be upon the application of the parent, master, or guardian of such person, or with their consent in writing expressed, under a penalty not exceeding one hundred dollars, to be recovered by indictment, to the use of the commonwealth, in any court proper to try the same: *provided*, that if there be no parent, master, or guardian, in the state, competent to act, a certificate may be issued without the application or written consent aforesaid.

SECT. 2. The clerk or registrar of every city or town may require of any person who shall apply for a certificate of intention of marriage, an affidavit, sworn to before some justice of the peace for the county where such application is made, setting forth his or her age, and for the purposes of this act, such affidavit shall be proof of the age of the person to whom such a certificate shall be given.

[Approved by the Governor, May 12, 1853.]

CHAPTER 366 OF ACTS OF 1855.

AN ACT RELATING TO THE REGISTRATION OF BIRTHS, MARRIAGES,  
AND DEATHS, IN THE STATE ALMSHOUSES.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

The superintendents of the State almshouses located at Monson, Tewksbury, and Bridgewater, are hereby authorized and required to make record of all the births and deaths which occur in the institutions under their care, and make returns of the same to the secretary of State, annually, as all town and city clerks are required to do by the act to which this is an act in addition ; and the town clerks of Monson, Tewksbury, and Bridgewater are hereby exempted from all duties herein required of the superintendents of the above named institutions.

[Approved by the Governor, May 17, 1855.]

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CHAPTER 34 OF ACTS OF 1857.

AN ACT IN ADDITION TO AN ACT RELATING TO BANNS OF MARRIAGE.

*Be it enacted, etc., as follows :*

If any person, applying to any clerk or registrar of any city or town for a certificate of intention of marriage, shall wilfully practise any deception, by making any false statement in relation to the age or residence of either of the parties intending marriage, or in relation to the parent, master, or guardian of either of the said parties, such person shall be subject to a penalty of not more than two hundred dollars, to be recovered by indictment, to the use of the Commonwealth, in any court competent to try the same.

[Approved March 28, 1857.]

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CHAPTER 195 OF ACTS OF 1860.

AN ACT CONCERNING FRAUDULENT NOTICES OF BIRTHS, MARRIAGES,  
AND DEATHS.

*Be it enacted, etc., as follows :*

Any person who shall wilfully send to the publishers of any newspaper, for the purpose of publication, a fraudulent notice of the birth of a child, or of the marriage of any parties, or of the death of any person, shall, upon conviction thereof, be punished by a fine not exceeding one hundred dollars.

[Approved April 4, 1860.]



## GENERAL STATUTES,

*To take effect June 1, 1860.*

## CHAPTER 21.

## OF THE REGISTRY AND RETURNS OF BIRTHS, MARRIAGES, AND DEATHS.

SECTION 1. The clerk of each city and town shall receive or obtain, and record and index, the following facts concerning the births, marriages, and deaths, therein, separately numbering and recording the same in the order in which he receives them, designating in separate columns:

In the record of births, the date of the birth, the place of birth, the name of the child, (if it have any,) the sex and color of the child, the names and the places of birth of the parents, the occupation of the father, the residence of the parents, and the date of the record;

In the record of marriages, the date of the marriage, the place of marriage, the name, residence, and official station of the person by whom married, the names and the places of birth of the parties, the residence of each, the age and color of each, the condition of each, (whether single or widowed,) the occupation, the names of the parents, and the date of the record;

In the record of deaths, the date of the death, the name of the deceased, the sex, the color, the condition, (whether single, widowed, or married,) the age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of the parents, the disease or cause of death, the place of burial, and the date of the record.

SECT. 2. Parents shall give notice to the clerk of their city or town of the births and deaths of their children; every householder shall give like notice of every birth and death happening in his house; the eldest person next of kin shall give such notice of the death of his kindred; the keeper of a workhouse, house of correction, prison, hospital, or almshouse, except the state almshouses at Tewksbury, Bridgewater, and Monson, and the master or other commanding officer of any ship shall give like notice of every birth and death happening among the persons under his charge. Whoever neglects to give such notice for the space of six months after a birth or death, shall forfeit a sum not exceeding five dollars.

SECT. 3. Any physician having attended a person during his last illness, shall, when requested within fifteen days after the decease of such person, forthwith furnish for registration a certificate of the duration of the last sickness, the disease of which the person died, and the date of his decease, as nearly as he can state the same. If any physician refuses or neglects to make such certificate, he shall forfeit and pay the sum of ten dollars to the use of the town in which he resides.

SECT. 4. Every sexton, undertaker, or other person having charge of a burial-ground, or the superintendent of burials having charge of the obsequies or funeral rites preliminary to the interment of a human body, shall forthwith obtain and return to the clerk of the city or town in which the deceased resided or the death occurred, the facts required by this chapter to be recorded by said officer concerning the deceased, and the person making such return shall receive from his city or town the fee of ten cents therefor.

The clerk, upon recording such facts, shall forthwith give to the person making such return, a certificate that such return has been made, which certificate such person shall deliver to the person having charge of the interment, if other than himself, before the burial when practicable, otherwise within seven days thereafter. When a burial takes place and no certificate is delivered as aforesaid, the sexton, undertaker, or other person having charge of the interment, shall forthwith give notice thereof to the clerk under penalty of twenty dollars.

SECT. 5. The clerk of each city and town shall annually on or before the first day of February, transmit to the secretary of the commonwealth, certified copies of the records of the births, marriages, and deaths, which have occurred therein during the year ending on the last day of the preceding December.

SECT. 6. The record of the town clerk relative to any birth, marriage, or death, shall be prima facie evidence, in legal proceedings, of the facts recorded. The certificate signed by the town clerk for the time being shall be admissible as evidence of any such record.

SECT. 7. The clerk shall receive from his city or town for obtaining, recording, indexing, and returning to the secretary of the commonwealth, the facts in relation to a birth, twenty cents; a marriage, ten cents; a death, twenty cents for each of the first twenty entries, and ten cents for each subsequent entry, as the same shall be certified by the secretary of the Commonwealth; but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to their clerk. He shall forfeit a sum not less than twenty nor more than one hundred dollars for each refusal or neglect to perform any duty required of him by this chapter.

SECT. 8. The superintendents of the state almshouses at Tewksbury, Bridgewater, and Monson, shall obtain, record, and make return of, the facts in relation to the births and deaths which occur in their respective institutions, in like manner as is required of town clerks. The clerks of said towns shall, in relation to the births and deaths of persons in said almshouses, be exempt from the duties otherwise required of them by this chapter.

SECT. 9. The secretary shall at the expense of the Commonwealth prepare and furnish to the clerks of the several cities and towns, and to the superintendents of the state almshouses, blank books of suitable quality and size to be used as books of record under this chapter, blank books for indexes thereto, and blank forms for returns, on paper of uniform size; and shall accompany the same with such instructions and explanations as may be necessary and useful. City and town clerks shall make such distribution of blank forms of returns furnished by the secretary as he shall direct.

SECT. 10. The secretary shall cause the returns received by him for each year to be bound together in one or more volumes with indexes thereto. He shall prepare from the returns such tabular results as will render them of practical utility, make report thereof annually to the legislature, and do all other acts necessary to carry into effect the provisions of this chapter.

SECT. 11. Any city or town containing more than ten thousand inhabitants, may choose a person other than the clerk to be registrar, who shall be sworn, and to whom all the provisions of this chapter concerning clerks shall apply. The returns and notices required to be made and given to clerks shall be made and given to such registrar under like penalties.

SECT. 12. The secretary of this Commonwealth shall prosecute, by an action of tort, in the name of the Commonwealth, for the recovery of any penalty or forfeiture imposed by this [chapter] [*act*].

SECT. 13. Any city or town may make rules and regulations to enforce the provisions of this chapter, or to secure a more perfect registration of births, marriages, and deaths, therein.



## GENERAL STATUTES OF 1860, CHAPTER 29.

## KEEPING AND CUSTODY OF RECORDS.

SECT. 9. Registers of deeds, registers of courts, and the registers and clerks of courts, cities, and towns, shall keep all records and documents belonging to their offices in their sole custody, and shall in no case, except upon summons in due form of law, or when the temporary removal of records and documents in their custody is necessary or convenient for the transaction of the business of the courts or the performance of the duties of their respective offices, cause or permit any record or document to be removed or taken away.

SECT. 10. Under the direction of the officers having the custody of the county, city, and town records and files, the same shall be open for public inspection and examination, and any person may take copies thereof. And the several clerks and registers shall, on payment of a reasonable fee therefor, compare and certify, in the manner herein mentioned, all transcripts properly and correctly made for any county, city, or town, in pursuance of the provisions of this chapter.

## GENERAL STATUTES OF 1860, CHAPTER 106.

## OF MARRIAGE.

SECTION 1. No man shall marry his mother, grandmother, daughter, granddaughter, step-mother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, or mother's sister.

SECT. 2. No woman shall marry her father, grandfather, son, grandson, step-father, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, or mother's brother.

SECT. 3. In all cases mentioned in the two preceding sections in which the relationship is founded on marriage, the prohibition shall continue notwithstanding the dissolution of such marriage by death or divorce, unless the divorce is for a cause which shows the marriage to have been originally unlawful or void.

SECT. 4. All marriages contracted while either of the parties has a former wife or husband living, except as is provided in chapter one hundred and seven, shall be void.

SECT. 5. No insane person or idiot shall be capable of contracting marriage.

SECT. 6. When persons resident in this State, in order to evade the preceding provisions and with an intention of returning to reside in this state, go into another state or country and there have their marriage solemnized, and afterwards return and reside here, the marriage shall be deemed void in this state.

SECT. 7. Persons intending to be joined in marriage shall before their marriage cause notice thereof to be entered in the office of the clerk or registrar of the city or town in which they respectively dwell, if within the state. If there is no such clerk or registrar in the place of their residence, the entry shall be made in an adjoining city or town.

SECT. 8. The clerk or registrar shall deliver to the parties a certificate under his hand, specifying the time when notice of the intention of marriage was entered with him, together with all facts in relation to the

marriage required by law to be ascertained and recorded, except those respecting the person by whom the marriage is to be solemnized. Such certificate shall be delivered to the minister or magistrate in whose presence the marriage is to be contracted, before he proceeds to solemnize the same.

SECT. 9. If a clerk or registrar issues such certificate to a male under the age of twenty-one years, or a female under the age of eighteen years, having reasonable cause to suppose the person to be under such age, except upon the application or consent in writing of the parent, master, or guardian, of such person, he shall forfeit a sum not exceeding one hundred dollars; but if there is no parent, master, or guardian, in this state competent to act, a certificate may be issued without such application or consent.

SECT. 10. The clerk or registrar may require of any person applying for such certificate, an affidavit sworn to before a justice of the peace for the county where the application is made, setting forth the age of the parties; which affidavit shall be sufficient proof of age to authorize the issuing of the certificate.

SECT. 11. Whoever applying for such certificate wilfully makes a false statement in relation to the age or residence, parent, master, or guardian, of either of the parties intending marriage, shall forfeit a sum not exceeding two hundred dollars.

SECT. 12. When a marriage is solemnized in another state between parties living in this state, and they return to dwell here, they shall within seven days after their return file with the clerk or registrar of the city or town where either of them lived at the time, a certificate or declaration of their marriage, including the facts concerning marriages required by law, and for every neglect they shall forfeit ten dollars.

SECT. 13. No magistrate or minister shall solemnize a marriage, having reasonable cause to suppose either of the parties to be under the age mentioned in section nine, without the consent of the parent or guardian having the custody of the minor, if there is any in the state competent to act.

SECT. 14. Marriages may be solemnized by a justice of the peace in the county for which he is appointed, when either of the parties resides in the same county; and throughout the state by any minister of the gospel ordained according to the usage of his denomination, who resides within the state and continues to perform the functions of his office; but all marriages shall be solemnized in the city or town in which the person solemnizing them resides, or in which one or both of the persons to be married reside.

SECT. 15. Marriages among the people called Friends or Quakers may be solemnized in the manner heretofore used and practised in their societies.

SECT. 16. Every justice of the peace, minister, and clerk, or keeper of the records of the meeting wherein any marriages among the Friends or Quakers are solemnized, shall make a record of each marriage solemnized before him, together with all facts relating to the marriage required by law to be recorded. He shall also between the first and tenth days of each month return a copy of the record for the month next preceding, to the clerk or registrar of the city or town in which the marriage was solemnized, and shall, when neither of the parties to a marriage resides in the city or town in which the marriage is solemnized, return a copy of the record of such marriage to the clerk or registrar of the city or town in which one or both of said parties reside. All marriages so returned shall be recorded by the clerk or registrar.

SECT. 17. Every person neglecting to make the returns required by the preceding section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

SECT. 18. A justice of the peace or minister who joins persons in



marriage contrary to the provisions of this chapter, knowing that the marriage is not duly authorized, shall forfeit not less than fifty nor more than one hundred dollars.

SECT. 19. Whoever undertakes to join persons in marriage knowing that he is not authorized so to do, shall be imprisoned in the jail or confined to hard labor for a term not exceeding six months, or pay a fine of not less than fifty nor more than two hundred dollars.

SECT. 20. No marriage solemnized before a person professing to be a justice of the peace or minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, by want of jurisdiction or authority in such person, or by an omission or informality in the manner of entering the intention of marriage, if the marriage is in other respects lawful, and is consummated with a full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

SECT. 21. The record of a marriage, made and kept as prescribed by law by the person before whom the marriage is solemnized, or by the clerk or registrar of any city or town, or a copy of such record duly certified, shall be received in all courts and places as presumptive evidence of such marriage.

SECT. 22. When the fact of marriage is required or offered to be proved before any court, evidence of the admission of such fact by the party against whom the process is instituted, or of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which the fact may be inferred, shall be competent.

SECT. 23. Marriages solemnized in a foreign country by a consul or diplomatic agent of the United States shall be valid in this State; and a copy of the record of a certificate from such consul or agent shall be presumptive evidence of such marriage.

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## GENERAL STATUTES OF 1860, CHAPTER 157.

### TOWN CLERKS.

SECT. 9. For entering notice of an intention of marriage and issuing the certificate thereof, and for entering the certificate of marriage filed by persons married out of the State, fifty cents, to be paid by the parties:

For a certificate of a birth or death, ten cents:

For copies of town records and other documents furnished to any person at his request, if containing less than one page, ten cents, and if more, at the rate of twelve cents a page.

### MINISTERS, ETC., FOR MARRIAGES.

SECT. 10. For lawfully solemnizing and certifying a marriage by a minister or justice of the peace, one dollar and twenty-five cents.

SECT. 15. The word "page" when used as the measure of computation, shall mean two hundred and twenty-four words.

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## CHAPTER 96 OF ACTS OF 1865.

### AN ACT RELATING TO THE REGISTRY AND RETURN OF BIRTHS.

*Be it enacted, etc., as follows:*

SECTION 1. It shall be the duty of every physician and midwife in the several cities and towns in this Commonwealth, on or before the tenth day of each month, to forward to the clerk of each city and town

a correct list of the births of all children born therein during the month next preceding, at which such physician or midwife was present; stating therein, as nearly as practicable, the place and date of each birth, the name, sex, and color of the child, the names, places of birth, and residence of the parents, and the occupation of the father.

SECT. 2. For every certificate of a birth, the physician or midwife shall receive twenty-five cents from such city or town; and any physician or midwife neglecting to forward such list for six months after it is due, shall forfeit a sum not exceeding five dollars, to be recovered as provided in the twelfth section of the twenty-first chapter of the General Statutes.

SECT. 3. This act shall take effect upon its passage.

*Approved March 24, 1865.*

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## CHAPTER 138 OF ACTS OF 1866.

### AN ACT CONCERNING THE REGISTRY AND RETURN OF MARRIAGES, BIRTHS, AND DEATHS.

*Be it enacted, etc., as follows:*

SECTION 1. The clerk of each city and town except in such cities and towns as choose a registrar, under the eleventh section of the twenty-first chapter of the General Statutes, in which cases the provisions of this act shall apply to the registrar, for receiving or obtaining, recording, indexing and returning the facts relating to marriages, births and deaths occurring therein, shall be entitled to receive therefrom the sums following, viz.: for each marriage, fifteen cents; for each birth, thirty cents; for each death returned to him by the persons specified in sections two, three and four of chapter twenty-one of the General Statutes, twenty cents for each of the first twenty entries, and ten cents for each subsequent entry; for each death not so returned, but by him obtained and recorded, twenty cents.

SECT. 2. Chapter ninety-six of the acts of the year eighteen hundred and sixty-five, and so much of section seven of the twenty-first chapter of the General Statutes as is inconsistent herewith, are hereby repealed.

SECT. 3. This act shall take effect upon its passage.

*Approved April 7, 1866.*

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## CHAPTER 58 OF ACTS OF 1867.

### AN ACT RELATING TO THE MARRIAGE OF NON-RESIDENT PARTIES.

*Be it enacted, etc., as follows:*

SECTION 1. Persons living without the Commonwealth and intending to be joined in marriage within the Commonwealth, shall, before their marriage, cause notice of their intention to be entered in the office of the clerk or registrar of the city or town in which they propose to have the marriage solemnized; and no marriage between such parties shall be solemnized until they shall have delivered to the justice of the peace, or minister, in whose presence the marriage is to be contracted, a certificate from such clerk or registrar, specifying the time when notice of the intention of marriage was entered with him, together with all the facts in relation to the marriage required by law to be ascertained and recorded, except those respecting the person by whom the marriage is to be solemnized.

SECT. 2. Marriages may be solemnized by a justice of the peace in the county for which he is appointed.



SECT. 3. A justice of the peace or minister who joins persons in marriage contrary to the provisions of this act shall forfeit not less than fifty nor more than one hundred dollars.

*Approved March 11, 1867.*

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#### CHAPTER 248 OF ACTS OF 1867.

##### AN ACT IN RELATION TO MARRIAGE CONTRACTS.

*Be it enacted, etc., as follows :*

SECTION 1. No marriage contract heretofore made between parties, both of whom are now living, or which may be hereafter made, shall be invalid as between the parties thereto and their heirs and personal representatives by reason of the failure to record the same as required by section twenty-eight of chapter one hundred and eight of the General Statutes.

SECT. 2. This act shall take effect upon its passage.

*Approved May 18, 1867.*

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#### CHAPTER 145 OF ACTS OF 1873.

##### AN ACT FIXING THE FEES OF CLERKS AND REGISTRARS FOR THE REGISTRY AND RETURN OF BIRTHS.

*Be it enacted, etc., as follows :*

SECTION 1. The clerk or registrar of a city or town shall receive the sum of fifty cents for receiving or obtaining, recording, indexing and returning the facts relating to each birth ; but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to their clerk or registrar.

SECT. 2. This act shall take effect upon its passage.

*Approved April 2, 1873.*

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#### CHAPTER 202 OF ACTS OF 1873.

##### AN ACT RELATING TO THE FEES OF SEXTONS AND OTHERS.

*Be it enacted, etc., as follows :*

SECTION 1. Section four of chapter twenty-one of the General Statutes is amended by striking out the word "ten" after the words "fee of," and inserting instead thereof the word "twenty-five."

SECT. 2. This act shall take effect upon its passage.

*Approved April 16, 1873.*

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#### CHAPTER 341 OF ACTS OF 1873.

##### AN ACT CONCERNING FEES OF TOWN CLERKS FOR OBTAINING AND RECORDING THE FACTS RELATING TO DEATHS.

*Be it enacted, etc., as follows :*

Chapter one hundred and thirty-eight of the acts of the year eighteen hundred and sixty-six is amended by striking out the words "twenty cents" at the close of section one, and substituting therefor the words "thirty-five cents."

*Approved June 6, 1873.*

CHAPTER 21 OF ACTS OF 1875.

AN ACT TO AMEND SECTION FIVE OF CHAPTER TWENTY-ONE OF THE GENERAL STATUTES, IN RELATION TO THE REGISTRY AND RETURNS OF BIRTHS, MARRIAGES AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. Section five of chapter twenty-one, of the General Statutes, is hereby amended by striking out the word "February" in the second line of said section and inserting in place thereof the word "March."

SECT. 2. This act shall take effect upon its passage.

*Approved February 19, 1875.*

CHAPTER 174 OF ACTS OF 1878.

AN ACT TO PROVIDE FOR THE MORE ACCURATE REGISTRATION OF VITAL STATISTICS.

*Be it enacted, etc., as follows :*

SECTION 1. No human body shall be buried, or removed from any city or town, until a proper certificate has been given by the clerk or local registrar of statistics to the undertaker or sexton, or person performing the burial, or removing the body. This certificate shall state that the facts required by chapter twenty-one of the General Statutes have been returned and recorded; and no clerk or local registrar shall give such certificate or burial permit until the certificate of the cause of death has been obtained from the physician, if any, in attendance at the last sickness of the deceased, and placed in the hands of said clerk or local registrar: *provided*, that in those cities and towns where local boards of health have been established, the certificate of the cause of death shall be approved by such board before a permit to bury is given by the registrar or clerk. Upon application, the chairman of the local board of health or any physician employed by any city or town for such purpose, shall sign the certificate of the cause of death to the best of his knowledge and belief, if there has been no physician in attendance. He shall also sign such certificate, upon application, in case of death by dangerous contagious disease, or in any other event when the certificate of the attending physician cannot for good and sufficient reasons be early enough obtained. In case of death by violence, the medical examiner attending shall furnish the requisite medical certificate. Any person violating the provisions of this section shall be punished by a fine not exceeding twenty-five dollars.

SECT. 2. This act shall take effect on the first day of May in the year eighteen hundred and seventy-eight; and all acts and parts of acts inconsistent herewith are hereby repealed.

*Approved April 23, 1878.*

CHAPTER 7 OF ACTS AND RESOLVES OF 1879.

RESOLVE RELATING TO THE TRANSFER OF CERTAIN RECORD OF MARRIAGES FOR THE COUNTY OF SUFFOLK FROM THE YEAR SEVENTEEN HUNDRED AND SIXTEEN TO THE YEAR SEVENTEEN HUNDRED AND THIRTY-ONE.

*Resolved*, That the clerk of the supreme judicial court for the county of Suffolk transfer to the city registrar of the city of Boston, the volume



containing the record of marriages in Suffolk county from the year seventeen hundred and sixteen to the year seventeen hundred and thirty-one inclusive.

*Approved February 19, 1879.*

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## CHAPTER 116 OF ACTS OF 1879.

### AN ACT IN RELATION TO RETURNS OF MARRIAGES.

*Be it enacted, etc., as follows :*

SECTION 1. Every justice of the peace, minister, and clerk, or keeper of the records of the meeting wherein any marriages among the Friends or Quakers are solemnized, shall make a record of each marriage solemnized before him, together with all facts relating to the marriage required by law to be recorded. He shall also between the first and tenth days of each month return a copy of the record for the month next preceding, to the clerk or registrar of the city or town in which the marriage was solemnized, and shall, when one or both of the parties to a marriage resides in a city or town other than that in which the marriage is solemnized, return a copy of the record of such marriage to the clerk or registrar of the city or town in which either party resides, and to both cities or towns when the parties reside in different places. All marriages so returned shall be recorded by the clerk or registrar.

SECT. 2. Every person neglecting to make the returns required by the preceding section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

SECT. 3. Sections sixteen and seventeen of chapter one hundred and six of the General Statutes are hereby repealed.

*Approved March 13, 1879.*

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## CHAPTER 33 OF ACTS OF 1880.

### AN ACT TO COMPEL A MORE ACCURATE REGISTRATION OF BIRTHS.

*Be it enacted, etc., as follows :*

SECTION 1. It shall be the duty of every physician and midwife in the several cities and towns in this Commonwealth, excepting Boston, to report on or before the fifth day of each month to the clerk of each city and town a correct list of births of all children born therein during the month next preceding at which such physician or midwife was present, stating therein the place, date of each birth, and parents' names.

SECT. 2. Town and city clerks shall give public notice that they are prepared to furnish the necessary blanks to all physicians and midwives applying therefor.

SECT. 3. Any physician or midwife neglecting to report such list for ten days after it is due shall for each offence forfeit a sum not exceeding twenty dollars.

SECT. 4. This act shall take effect upon its passage.

*Approved February 26, 1880.*

## CHAPTER 11 OF ACTS OF 1881.

## AN ACT CONCERNING MARRIAGES IN THE SOCIETY OF FRIENDS.

*Be it enacted, etc., as follows :*

SECTION 1. Section sixteen of chapter one hundred and six of the General Statutes is hereby amended by inserting after the word "him," in the fourth line, the words "or in the said meeting."

SECT. 2. Section twenty of said chapter is hereby amended by inserting after the word "gospel," in the second line, the words "or in the Society of Friends according to its usages," and by inserting after the word "person," in the fourth line, the words "or Society of Friends."

SECT. 3. This act shall take effect upon its passage.

*Approved February 9, 1881.*

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## CHAPTER 32 OF THE PUBLIC STATUTES.

[Enacted November 19, 1881, to take effect February 1, 1882.]

## RECORDS OF BIRTHS, MARRIAGES AND DEATHS.

SECTION 1. The clerk of each city and town shall receive or obtain and record and index, the following facts concerning the births, marriages and deaths therein, separately numbering and recording the same in the order in which he receives them, designating in separate columns as follows :

In the record of births, the date of birth, the place of birth, the name of the child, (if it has any,) the sex and color of the child, the names and places of birth of the parents, the occupation of the father, the residence of the parents, and the date of the record.

In the record of marriages, the date of the marriage, the place of marriage, the name, residence and official station of the person by whom married, the names and the places of birth of the parties, the residence of each, the age and color of each, the condition of each, (whether single or widowed,) the occupation, the names of the parents, and the date of the record.

In the record of deaths, the date of the death, the name of the deceased, the sex, the color, the condition, (whether single, widowed, or married,) the age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of the parents, the disease or cause of death, the place of burial, and the date of the record.

SECT. 2. Parents shall give notice to the clerk of their city or town of the births and deaths of their children ; every householder shall give like notice of every birth and death happening in his house ; the eldest person next of kin shall give such notice of the death of his kindred ; the keeper of a workhouse, house of correction, prison, hospital, or almshouse, except the State almshouse, and the master or other commanding officer of a ship, shall give like notice of every birth and death happening among the persons under his charge. Whoever neglects to give such notice for the space of six months after a birth or death shall forfeit a sum not exceeding five dollars.

SECT. 3. A physician who has attended a person during his last illness shall, when requested within fifteen days after the decease of such person, forthwith furnish for registration a certificate of the duration of the last sickness, the disease of which the person died, and the date of his decease, as nearly as he can state the same. If a physician refuses



or neglects to make such certificate, he shall forfeit ten dollars to the use of the town in which he resides.

SECT. 4. Every sexton, undertaker, or other person having charge of a burial-ground, and every undertaker or superintendent of burials having charge of the funeral rites preliminary to the interment of a human body, shall forthwith obtain and return to the clerk of the city or town in which the deceased resided, or the death occurred, the facts required by this chapter to be recorded by said officer concerning the deceased, and the person making such return shall receive from his city or town the fee of twenty-five cents therefor.

SECT. 5. No human body shall be buried or removed from any city or town until a proper certificate has been given by the clerk or registrar to the undertaker, sexton or other person performing the burial or removing the body. Such certificate shall state that the facts required by this chapter have been returned and recorded; and no clerk or registrar shall give such certificate or burial permit until the certificate of the cause of death has been obtained from the physician, if any, in attendance at the last sickness of the deceased, and placed in the hands of said clerk or registrar; and in cities and towns where there are boards of health, the certificate of the cause of death shall also be approved by such board before a permit to bury is given by the registrar or clerk. Upon application, the chairman of the board of health, or any physician employed by any city or town for such purpose, shall sign the certificate of the cause of death to the best of his knowledge and belief, if there has been no physician in attendance. He shall also sign such certificate, upon application, in case of death by dangerous contagious disease, or in any other event when the certificate of the attending physician cannot for good and sufficient reasons be early enough obtained. In case of death by violence, the medical examiner attending shall furnish the requisite medical certificate. Any person violating the provisions of this section shall be punished by fine not exceeding twenty-five dollars.

SECT. 6. The boards of health of towns and the mayor and aldermen of cities shall, on or before the first day of July in each year, license a suitable number of undertakers to take charge of the funeral rites preliminary to the interment of a human body.

SECT. 7. Physicians and midwives shall on or before the fifth day of each month report to the clerk of each city and town, except Boston, a correct list of all children born therein during the month next preceding at the birth of which they were present, stating the place and date of each birth, and the parents' names.

SECT. 8. The clerk of each city and town shall give public notice that he is prepared to furnish, to all physicians and midwives applying therefor, blanks for returns under the preceding section.

SECT. 9. Any physician or midwife neglecting to report such list for ten days after it is due shall for each offence forfeit a sum not exceeding twenty dollars.

SECT. 10. The clerk of each city and town shall annually, on or before the first day of March, transmit to the secretary of the commonwealth certified copies of the records of the births, marriages and deaths which have occurred therein during the year ending on the last day of the preceding December.

SECT. 11. The record of the town clerk relative to a birth, marriage or death, shall be prima facie evidence, in legal proceedings, of the facts recorded. A certificate, signed by the town clerk for the time being, shall be admissible as evidence of such record.

SECT. 12. The clerk of each city and town, (except in such cities and towns as choose a registrar, in which cases the provisions of this section shall apply to the registrar,) for receiving or obtaining, recording, indexing, and returning the facts relating to marriages,

births and deaths occurring therein, shall be entitled to receive from the city or town for each marriage, fifteen cents; for each birth, fifty cents; for each death returned to him by the persons specified in sections two, three, and four, twenty cents for each of the first twenty entries, and ten cents for each subsequent entry; for each death not so returned, but by him obtained and recorded, thirty-five cents, as the same shall be certified by the secretary of the commonwealth; but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to their clerk or registrar. He shall forfeit not less than twenty nor more than one hundred dollars for each refusal or neglect to perform any duty required of him by sections one, two, three, four, ten, twelve, fourteen, sixteen, and eighteen.

SECT. 13. The superintendent of the state almshouse shall obtain, record, and make return of the facts in relation to the births and deaths which occur in his institution, in like manner as is required of town clerks. The clerk of a town in which such almshouse is located shall, in relation to the births and deaths of persons in said almshouse, be exempt from the duties otherwise required of him by this chapter.

SECT. 14. The secretary shall at the expense of the commonwealth prepare and furnish to the clerks of the several cities and towns, and to the superintendent of the state almshouse, blank books of suitable quality and size to be used as books of record under this chapter, blank books for indexes thereto, and blank forms for returns, on paper of uniform size; and shall accompany the same with such instructions and explanations as may be necessary and useful. City and town clerks shall make such distribution of blank forms of returns furnished by the secretary as he shall direct.

SECT. 15. The secretary shall cause the returns received by him for each year to be bound together in one or more volumes with indexes thereto. He shall prepare from the returns such tabular results as will render them of practical utility, make report thereof annually to the general court, and do all other acts necessary to carry into effect the provisions of this chapter.

SECT. 16. A city or town containing more than ten thousand inhabitants may choose a person other than the clerk to be registrar, who shall be sworn, and to whom all the provisions of this chapter concerning clerks shall apply. The returns and notices required to be made and given to clerks shall be made and given to such registrar under like penalties.

SECT. 17. The secretary of the Commonwealth shall prosecute, by an action of tort in the name of the Commonwealth, for the recovery of any penalty or forfeiture imposed by sections two, three, twelve, sixteen, and eighteen.

SECT. 18. A city or town may make rules and regulations to enforce the provisions of this chapter, or to secure a more perfect registration of births, marriages, and deaths therein.

## CHAPTER 37 OF THE PUBLIC STATUTES.

### OF THE PUBLIC RECORDS.

SECT. 5. A city or town may cause to be carefully copied such of its records as relates to grants of land, — and also any records of births and marriages kept by such city or town or by a parish within the same.

SECT. 12. Registers of deeds and the registers and clerks of courts, cities and towns shall keep all records and documents belonging to their respective offices in their sole custody, and shall in no case, except upon summons in due form of law or when the temporary removal of



records and documents in their custody is necessary or convenient for the transaction of the business of the courts or the performance of the duties of their respective offices, cause or permit any record or document to be removed therefrom.

SECT. 13. Under the direction of the officers having the custody of any county, city or town records or files, all such records and files shall be open for public inspection and examination, and any person may take copies thereof. And the several clerks and registers shall, on payment of a reasonable fee therefor, compare and certify all copies properly and correctly made in pursuance of the provisions of this chapter.

## CHAPTER 145 OF THE PUBLIC STATUTES.

### OF MARRIAGE.

#### CERTAIN MARRIAGES PROHIBITED.

SECTION 1. No man shall marry his mother, grandmother, daughter, granddaughter, step-mother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, or mother's sister.

SECT. 2. No woman shall marry her father, grandfather, son, grandson, step-father, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, or mother's brother.

SECT. 3. In all cases in which the relationship mentioned in the two preceding sections is founded on marriage, the prohibition shall continue notwithstanding the dissolution by death or divorce of the marriage on which such relationship is founded, unless the divorce is for a cause which shows such marriage to have been originally unlawful or void.

SECT. 4. All marriages contracted while either of the parties has a former wife or husband living, except as is provided in chapter one hundred and forty-six, shall be void.

SECT. 5. No insane person or idiot shall be capable of contracting marriage.

SECT. 6. No magistrate or minister shall solemnize a marriage, when he has reasonable cause to suppose the male to be under the age of twenty-one years or the female to be under the age of eighteen years, except with the consent of the parent or guardian having the custody of the minor, if there is any such parent or guardian in the Commonwealth competent to act.

SECT. 7. Every marriage solemnized within this Commonwealth, which is prohibited on account of consanguinity or affinity between the parties, or on account of either of them having a former wife or husband living, or when either party was insane or an idiot, shall be void without a decree of divorce or other legal process.

SECT. 8. Every marriage solemnized when either party was under the age of consent shall be similarly void, if the parties separate during such nonage, and do not afterwards cohabit.

SECT. 9. The validity of a marriage shall not be questioned in the trial of a collateral issue on account of the insanity or idiocy of either party, but such question shall only be raised in a process instituted to test such validity in the lifetime of both parties.

SECT. 10. When persons resident in this Commonwealth, in order to evade any of the provisions of the first five sections of this chapter, and with an intention of returning to reside in this Commonwealth, go into another state or country and there have their marriage solemn-

nized, and afterwards return and reside here, the marriage shall be deemed void in this Commonwealth.

SECT. 11. When the validity of a marriage is doubted, either party may file a libel for annulling such marriage, or, when the validity of a marriage is denied or doubted by either party, the other party may file a libel for affirming the same. Such libel shall be filed in the same manner as a libel for divorce, and all the provisions of chapter one hundred and forty-six relative to libels for divorce, and section twenty-four of said chapter, relative to the powers of the court in relation thereto, shall, so far as applicable, apply to libels under this section. Upon proof of the nullity or validity of the marriage, it shall be declared void, or affirmed by a decree of the court, and such decree of nullity may be made notwithstanding the marriage was solemnized out of the Commonwealth, if the libellant had his domicile in the Commonwealth when the marriage was solemnized and also when the libel was filed, and such decree affirming a marriage shall be conclusive upon all persons concerned.

LEGITIMACY, CARE, ETC., OF ISSUE OF VOID MARRIAGES.

SECT. 12. The issue of a marriage declared void on account of consanguinity or affinity between the parties shall be deemed to be illegitimate.

SECT. 13. The issue of a marriage declared void on account of the nonage, insanity or idiocy of either party shall be deemed to be the legitimate issue of the parent who was capable of contracting the marriage.

SECT. 14. When a marriage is declared void on account of a prior marriage of either party, and it appears that the second marriage was contracted in good faith and with the full belief of the parties that the former husband or wife was dead, that fact shall be stated in the decree, and the issue of the second marriage, born or begotten before the commencement of the suit, shall be deemed to be the legitimate issue of the parent capable of contracting the marriage.

SECT. 15. Upon or after a decree of nullity the court shall have similar power to make orders concerning the care, custody and maintenance of the minor children of the parties as upon a decree of divorce.

NOTICE OF INTENTION OF MARRIAGE.

SECT. 16. Persons intending to be joined in marriage in this Commonwealth shall before their marriage cause notice of their intention to be entered in the office of the clerk or registrar of the city or town in which they respectively dwell, or, if they do not dwell within the Commonwealth, in the office of the clerk or registrar of the city or town in which they propose to have the marriage solemnized. If there is no such clerk or registrar in the place of their residence, the entry shall be made in an adjoining city or town.

SECT. 17. The clerk or registrar shall deliver to the parties a certificate under his hand, specifying the time when notice of the intention of marriage was entered with him, together with all facts in relation to the marriage which are required by law to be ascertained and recorded, except those respecting the person by whom the marriage is to be solemnized. Such certificate shall be delivered to the minister or magistrate before whom the marriage is to be contracted, before he proceeds to solemnize the same.

SECT. 18. If a clerk or registrar issues such certificate to a male under the age of twenty-one years, or to a female under the age of eighteen years, when he has reasonable cause to suppose the person to be under such age, except upon the application or consent in writing of the parent, master or guardian of such person, he shall forfeit a



sum not exceeding one hundred dollars; but if there is no parent, master or guardian in this Commonwealth competent to act, a certificate may be issued without such application or consent.

SECT. 19. The clerk or registrar may require of any person applying for such certificate an affidavit setting forth the age of the parties; which affidavit shall be sworn to before a justice of the peace, and shall be sufficient proof of age to authorize the issuing of the certificate.

SECT. 20. Whoever, when applying for such certificate, wilfully makes a false statement in relation to the age, residence, parent, master or guardian of either of the parties intending marriage, shall forfeit a sum not exceeding two hundred dollars.

SECT. 21. When a marriage is solemnized in another state between parties living in this Commonwealth, and they return to dwell here, they shall within seven days after their return file with the clerk or registrar of the city or town where either of them lived at the time a certificate or declaration of their marriage, including the facts concerning marriages required by law; and for every neglect so to do they shall forfeit ten dollars.

#### BY WHOM AND HOW MARRIAGE MAY BE SOLEMNIZED.

SECT. 22. A marriage may be solemnized by a justice of the peace or by a minister of the gospel, ordained according to the usage of his denomination, who resides in the Commonwealth and continues to perform the functions of his office; but every marriage shall be solemnized in the city or town in which the person solemnizing it resides, or in which one or both of the persons to be married reside.

SECT. 23. A marriage among the people called Friends or Quakers may be solemnized in the manner heretofore used and practised in their societies.

SECT. 24. Every justice of the peace, minister and clerk or keeper of the records of a meeting wherein marriages among Friends or Quakers are solemnized shall make a record of each marriage solemnized before him, or in such meeting, and of all facts relating to the marriage which are required by law to be recorded. He shall also, between the first and tenth days of each month, return a copy of all such records for the month next preceding to the clerk or registrar of the city or town in which the marriage was solemnized, and shall, when one or both of the parties to the marriage resided in a city or town other than that in which the marriage was solemnized, return a copy of the record of such marriage to the clerk or registrar of the city or town in which either party resided, and to the clerks or registrars of both cities or towns when the parties resided in different places. All marriages so returned shall be recorded by the clerk or registrar, and every person neglecting to make the returns required by this section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

SECT. 25. A justice of the peace or minister who joins persons in marriage contrary to the provisions of this chapter, knowing that the marriage is not duly authorized, shall forfeit not less than fifty nor more than one hundred dollars.

SECT. 26. Whoever undertakes to join persons in marriage, knowing that he is not authorized so to do, shall be imprisoned in the jail for a term not exceeding six months, or pay a fine of not less than fifty nor more than two hundred dollars.

SECT. 27. No marriage solemnized before a person professing to be a justice of the peace or a minister of the gospel, or solemnized in the society of Friends according to the usages of said society, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected by want of jurisdiction or authority in such person or society, or by an omission or by informality in the manner of enter-

ing the intention of marriage, if the marriage is in other respects lawful, and is consummated with a full belief on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.

SECT. 28. Marriages solemnized in a foreign country by a consul or diplomatic agent of the United States shall be valid in this Commonwealth.

EVIDENCE OF MARRIAGE.

SECT. 29. The record of a marriage, made and kept as prescribed by law by the person before whom the marriage has been solemnized, or by the clerk or registrar of a city or town, or a copy of such record duly certified, shall be received in all courts and places as presumptive evidence of such marriage.

SECT. 30. When a marriage has been solemnized by a consul or diplomatic agent of the United States, a copy of the record or a certificate from such consul or agent shall be presumptive evidence of such marriage.

SECT. 31. When the fact of marriage is required or offered to be proved before a court, evidence of the admission of such fact by the party against whom the process is instituted, or evidence of general repute or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which the fact may be inferred, shall be competent.

CHAPTER 199 OF THE PUBLIC STATUTES.

TOWN CLERKS.

SECT. 16. The fees of town clerks shall be as follows :

For entering notice of an intention of marriage and issuing the certificate thereof, and for entering the certificate of marriage filed by persons married out of the state, fifty cents, to be paid by the parties.

For a certificate of a birth or death, ten cents.

MINISTERS, ETC., FOR MARRIAGES.

SECT. 17. For lawfully solemnizing and certifying a marriage, a minister or justice of the peace shall be entitled to receive one dollar and twenty-five cents.

CHAPTER 207 OF THE PUBLIC STATUTES.

FRAUDULENT NOTICES.

SECT. 68. Whoever wilfully sends to the publisher of a newspaper, for the purpose of publication, a false notice of a birth, marriage or death, shall be punished by fine not exceeding one hundred dollars.

CHAPTER 124 OF ACTS OF 1883.

AN ACT RELATING TO THE REMOVAL AND TRANSPORTATION OF CERTAIN BODIES FOR BURIAL.

*Be it enacted, etc., as follows :*

SECTION 1. Section five of chapter thirty-two of the Public Statutes, relating to the burial or removal of bodies for burial, is amended by inserting in the eleventh line thereof, after the word "bury," the words "or remove."



SECT. 2. No railroad corporation, or other common carrier or person, shall convey or cause to be conveyed, through or from any city or town in this Commonwealth, the remains of any person who has died of small-pox, scarlet fever, diphtheria, or typhoid fever, until such body has been so encased and prepared as to preclude any danger of communicating the disease to others by its transportation; and no local registrar or clerk shall give a permit for the removal of such body until he has received from the board of health of the city, or the selectmen of the town where the death occurred, a certificate, stating the cause of death, and that said body has been prepared in the manner set forth in this section, which certificate shall be delivered to the agent or person who receives the body.

SECT. 3. This act shall take effect upon its passage.

*Approved April 11, 1883.*

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#### CHAPTER 158 OF ACTS OF 1883.

##### AN ACT IN RELATION TO THE RETURNS OF BIRTHS BY PHYSICIANS AND MIDWIVES.

*Be it enacted, etc., as follows :*

SECTION 1. Section seven of chapter thirty-two of the Public Statutes is amended so as to read as follows: "Sect. 7. Physicians and midwives shall on or before the fifth day of each month report to the clerk of each city or town, except Boston, a correct list of all children born therein during the month next preceding, at whose birth they were present, stating the date and place of each birth, the name of the child (if it has any), the sex and color of the child, the name, place of birth and residence of the parents, and the occupation of the father. The fee of the physician or midwife shall be twenty-five cents for each birth so reported, and shall be paid by the city or town in which the report is made."

SECT. 2. This act shall take effect upon its passage.

*Approved May 3, 1883.*

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#### CHAPTER 36 OF ACTS OF 1886.

##### AN ACT TO AMEND SECTION ELEVEN OF CHAPTER ONE HUNDRED AND FORTY-FIVE OF THE PUBLIC STATUTES RELATING TO MARRIAGE.

*Be it enacted, etc., as follows :*

SECTION 1. Section eleven of chapter one hundred and forty-five of the Public Statutes is hereby amended, by inserting in the fourteenth line of said section after the word "filed," the following words: — or has resided in this Commonwealth for five years next preceding the filing of said libel, unless it appears that said libellant has removed into this Commonwealth for the purpose of obtaining said decree.

SECT. 2. This act shall take effect upon its passage.

*Approved March 2, 1886.*

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#### CHAPTER 202 OF ACTS OF 1887.

##### AN ACT IN RELATION TO THE RETURN AND RECORD OF BIRTHS MARRIAGES AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. Section five of chapter thirty-seven of the Public Statutes is hereby amended by inserting the word: — deaths, — after the

word "births" in the fourth line thereof, so that the same shall read: — also any records of births, deaths and marriages kept by such city or town or by a parish within the same.

SECT. 2. Section four of chapter thirty-two of the Public Statutes is hereby amended by adding at the end thereof the words: — all such returns shall be preserved by said clerk or registrar, and filed, arranged and indexed conveniently for examination and reference.

SECT. 3. Section twenty-four of chapter one hundred and forty-five is hereby amended by adding at the end thereof the words: — all such returns shall be preserved by said clerk or register, and filed, arranged and indexed conveniently for examination and reference.

SECT. 4. The provisions of sections two and three of this act shall apply to all returns of marriages and deaths now in the offices of town and city clerks and city registrars.

SECT. 5. Section one of chapter thirty-two of the Public Statutes is hereby amended by inserting after the word "burial" in the twentieth line of said section the words: — if the deceased was a married woman the name of her husband.

SECT. 6. This act shall take effect upon its passage.

*Approved April 20, 1887.*

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## CHAPTER 63 OF ACTS OF 1888.

AN ACT TO AMEND SECTION THREE OF CHAPTER THIRTY-TWO OF THE PUBLIC STATUTES RELATING TO THE FURNISHING, BY PHYSICIANS, OF CERTIFICATES OF DEATH.

*Be it enacted, etc., as follows:*

SECTION 1. Section three of chapter thirty-two of the Public Statutes is hereby amended by striking out after the words "when requested" in the second line thereof, the words "within fifteen days after the decease of such person."

SECT. 2. This act shall take effect upon its passage.

*Approved February 27, 1888.*

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## CHAPTER 306 OF ACTS OF 1888.

AN ACT RELATING TO THE CERTIFICATES AND REGISTRY OF DEATHS, AND THE BURIAL AND REMOVAL OF BODIES OF DECEASED PERSONS.

*Be it enacted etc., as follows:*

SECTION 1. Section three of chapter thirty-two of the Public Statutes, requiring attending physicians to furnish for registration certain facts relating to deceased persons, is amended so as to read as follows: — *Section 3.* A physician who has attended a person during his last illness shall, when requested, forthwith furnish for registration, a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died, the duration of his last sickness, and the date of his decease. If the physician neglect or refuse to make a certificate as aforesaid, he shall be punished by a fine not exceeding fifty dollars.

SECT. 2. Section five of said chapter, prohibiting the burial or removal of a human body until a proper certificate is furnished, is amended so as to read as follows:

*Section 5.* No undertaker, sexton or any other person shall bury in a city or town or remove therefrom the



body of a deceased person until he has received a permit so to do from the board of health or its duly appointed agent, or, if there is no board of health in such city or town, from the city or town clerk. No such permit shall be issued until there has been delivered to such board, or agent or clerk, as the case may be, a satisfactory written statement containing the facts required by this chapter to be returned and recorded, together with the certificate of the attending physician, if any, as required by section three of this chapter, or in lieu thereof a certificate as hereinafter provided. If there is no attending physician, or if the certificate of the attending physician cannot be obtained, for good and sufficient reasons, early enough for the purpose, the chairman of the board of health or any physician employed by a city or town for the purpose shall, upon request of said board, agent or clerk, make such certificate as is required of the attending physician; and in case of death by violence the medical examiner shall, if requested, make the same. When such satisfactory statement and certificate are delivered to the board of health or to its agent, the board or agent shall forthwith countersign and transmit the same to the clerk or registrar for registration. The person to whom the permit is so given shall thereafter furnish for registration any other information as to the deceased or to the manner and cause of the death, as the clerk or registrar may require. Any person violating any of the provisions of this section shall be punished by a fine not exceeding fifty dollars.

*Approved May 4, 1888.*

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#### CHAPTER 208 OF ACTS OF 1889.

##### AN ACT IN RELATION TO THE RETURNS OF BIRTHS AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. The clerk or registrar of each city and town shall on the first day of each month make a certified copy of the record of all deaths and births recorded in the books of said city or town during the previous month, whenever the deceased person or the parents of the child born, were resident in any other city or town in this Commonwealth at the time of said death or birth; and shall transmit said certified copies to the clerk or registrar of the city or town in which such deceased person or parents were resident at the time of said death or birth, stating in addition the name of the street and number of the house, if any, where such deceased person or parents so resided, whenever the same can be ascertained; and the clerk or registrar so receiving such certified copies shall record the same in the books kept for recording deaths or births. Such certified copies shall be made upon blanks to be furnished for that purpose by the secretary of the Commonwealth.

SECT. 2. This act shall take effect upon its passage.

*Approved April 5, 1889.*

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#### CHAPTER 288 OF ACTS OF 1889.

##### AN ACT IN RELATION TO THE RETURNS OF BIRTHS BY PHYSICIANS AND MIDWIVES.

*Be it enacted, etc., as follows :*

Section seven of chapter thirty-two of the Public Statutes, as amended by chapter one hundred and fifty-eight of the acts of the year eighteen hundred and eighty-three, is hereby further amended by striking out in

the second and third lines of said section the words "except Boston," so as to read as follows:

*Section 7.* Physicians and midwives shall, on or before the fifth day of each month, report to the clerk of each city or town a correct list of all children born therein during the month next preceding, at whose birth they were present, stating the date and place of each birth, the name of the child (if it has any), the sex and color of the child, the name, place of birth, and residence of the parents, and the occupation of the father. The fee of the physician or midwife shall be twenty-five cents for each birth so reported, and shall be paid by the city or town in which the report is made.

*Approved April 26, 1889.*

## CHAPTER 402 OF ACTS OF 1890.

### AN ACT IN RELATION TO THE RETURN AND RECORD OF DEATHS.

*Be it enacted, etc., as follows:*

**SECTION 1.** The last clause of section one of chapter thirty-two of the Public Statutes, as amended by section five of chapter two hundred and two of the acts of the year eighteen hundred and eighty-seven, is hereby further amended so that said clause shall read as follows: In the record of deaths, the date of the death, the name of the deceased, the sex, the color, the condition (whether single, widowed or married,) the age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of parents, the disease or cause of death, the place of burial, if the deceased was a married woman her maiden name, and the name of her husband, and the maiden name of the mother of any deceased person, and the date of the record.

**SECT. 2.** This act shall take effect upon its passage.

*Approved June 11, 1890.*

## CHAPTER 300 OF ACTS OF 1892.

### AN ACT RELATING TO THE RECORD AND RETURN OF MARRIAGES.

*Be it enacted, etc., as follows:*

Section twenty-four of chapter one hundred and forty-five of the Public Statutes is hereby amended by inserting in the third line of said section, after the word "make," the words:— and keep, — by striking out, in the fifth line, the words "by law," by inserting after the word "recorded," in said fifth line, the words:— by section one of chapter thirty-two of the Public Statutes, — by striking out the word "each," in the sixth line of said section, and inserting in place thereof the word:— the, — by striking out all after the word "month," in said sixth line, to and including the word "solemnized," in the tenth line, and inserting in place thereof the following words:— following each marriage solemnized by him, return each certificate issued under the provisions of sections sixteen and seventeen of this chapter, to the clerk or registrar who issued the same; and if the marriage was solemnized in a city or town other than the place or places in which the parties to the marriage resided,—by striking out, in the eleventh line, the words "of the record of such marriage," and inserting in place thereof the following words:— of the certificate, or of either certificate in case two were issued,— by striking out all after the word "town," in the twelfth line, to and including "places," in the fourteenth line, and inserting in place thereof the following words:— in which the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the place and date of marriage, and shall be attested by the signature



of the person who solemnized the same, with his official station and residence added thereto, — by striking out the word “marriages,” in said fourteenth line, and inserting in place thereof the words: — certificates or copies, — by inserting after the word “registrar,” in the fifteenth line, the words: — receiving the same, — and by inserting after the word “the,” in said fifteenth line, the words: — record and, — so as to read as follows:

*Section 24.* Every justice of the peace, minister and clerk or keeper of the records of a meeting wherein marriages among Friends or Quakers are solemnized shall make and keep a record of each marriage solemnized before him, or in such meeting, and of all facts relating to the marriage which are required to be recorded by section one of chapter thirty-two of the Public Statutes. He shall also, between the first and tenth days of the month following each marriage solemnized by him, return each certificate issued under the provisions of sections sixteen and seventeen of this chapter, to the clerk or registrar who issued the same; and if the marriage was solemnized in a city or town other than the place or places in which the parties to the marriage resided, return a copy of the certificate, or of either certificate in case two were issued, to the clerk or registrar of the city or town in which the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the place and date of marriage, and shall be attested by the signature of the person who solemnized the same, with his official station and residence added thereto. All certificates or copies so returned shall be recorded by the clerk or registrar receiving the same, and every person neglecting to make the record and returns required by this section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

*Approved May 17, 1892.*

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## CHAPTER 305 OF ACTS OF 1892.

### AN ACT CONCERNING RECORDS OF BIRTHS, DEATHS AND MARRIAGES.

*Be it enacted, etc., as follows:*

SECTION 1. Whenever the records of any city or town do not contain the facts relating to a birth, death or marriage which occurred therein, or whenever such facts are not fully or correctly stated on such records, the clerk or registrar of such city or town may receive a deposition, under oath, containing such facts as are desired for record, and shall then file said deposition and record said facts in a book to be kept for that purpose, stating in addition thereto the name and residence of the deponent and the date of such record. The clerk or registrar shall keep such book separate and apart from the official records of his office, and may certify to the facts contained therein; *provided, however*, that such certificate shall state in addition to all the facts so recorded that the certificate is issued in accordance with the provisions of this act.

SECT. 2. A clerk or registrar shall not alter or amend the record of any former clerk or registrar, nor any record made while he is in office, except to correct a clerical error made by himself or some person under his direction. Whenever it is deemed expedient to make a new copy of any earlier records, each page shall be verified and signed by the clerk or registrar, and such record while preserved in proper custody shall have the same force and effect as the original record.

SECT. 3. Any person who shall make a false return in regard to any birth or death shall be liable to a fine not exceeding fifty dollars.

*Approved May 17, 1892*

## CHAPTER 314 OF ACTS OF 1892.

## AN ACT CONCERNING THE CITY REGISTRAR OF THE CITY OF BOSTON.

*Be it enacted, etc., as follows:*

SECTION 1. The mayor of the city of Boston shall appoint, subject to confirmation by the board of aldermen of said city, a city registrar, who shall have charge of the registry department of said city and shall have all the powers and perform all the duties appertaining to registrars of cities provided for in section sixteen of chapter thirty-two of the Public Statutes; and said city may from time to time assign to said city registrar any other duties. Chapter two hundred and sixty-six of the acts of the year eighteen hundred and eighty-five and chapter four hundred and eighteen of the acts of the year eighteen hundred and ninety, and all other acts relating to departments of the city of Boston and officers in charge thereof, shall apply to said registry department and to said city registrar.

SECT. 2. The said city registrar shall, from his subordinates, appoint two assistant city registrars, who may, in the absence of the city registrar, perform his duties; and the certificates or attestations of either assistant city registrar shall have the same force and effect as that of the city registrar; said city registrar may pay, out of any funds received by him, the fees due to persons making returns under the requirements of law, and shall on or before the twentieth of each month transmit the accounts and vouchers for all funds so received and fees so paid to the city auditor.

SECT. 3. The duties imposed upon the clerks of cities or towns under sections fourteen and fifteen of chapter thirty-seven of the Public Statutes shall in Boston be performed by the city registrar.

SECT. 4. Said city may from time to time, by ordinance, direct the head of any department, including the city clerk, to place in charge of the city registrar any of the books or papers of such department bearing date prior to the year eighteen hundred and seventy-five, and may in like manner direct their return.

SECT. 5. In the city of Boston the penalties or forfeitures established by section seventeen of chapter thirty-two of the Public Statutes, or by acts supplementary thereto, shall be recovered on complaint, in the same manner as penalties for breaches of the ordinances of said city, and all fines paid on such complaints shall enure to said city for such uses as it may direct.

*Approved May 19, 1892.*

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## CHAPTER 263 OF ACTS OF 1893.

AN ACT RELATING TO CERTIFICATES AND REGISTRATION OF DEATHS  
AND TO THE BURIAL AND REMOVAL OF HUMAN BODIES.

*Be it enacted, etc., as follows:*

SECTION 1. Section three of chapter thirty-two of the Public Statutes, as amended by section one of chapter three hundred and six of the acts of the year eighteen hundred and eighty-eight, is hereby amended by inserting after the word "decease," in the seventh line the words: and a physician who has attended at a birth of a child dying immediately thereafter, or at the birth of a stillborn child, shall, when requested, forthwith furnish for registration a certificate stating, to the best of his knowledge and belief, the fact that such a child died after birth or was born dead, — also by inserting after the word "aforesaid," in the eighth line, the words: or makes a false statement therein, — so as to read as follows: *Section 3.* A physician who has attended a person during his last illness shall, when requested forthwith, furnish



for registration, a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died, the duration of his last sickness, and the date of his decease; and a physician who has attended at a birth of a child dying immediately thereafter, or at the birth of a stillborn child, shall, when requested, forthwith furnish for registration a certificate stating, to the best of his knowledge and belief, the fact that such a child died after birth or was born dead. If a physician neglects or refuses to make a certificate as aforesaid, or makes a false statement therein, he shall be punished by a fine not exceeding fifty dollars.

SECT. 2. Section five of chapter thirty-two of the Public Statutes, as amended by section two of chapter three hundred and six of the acts of the year eighteen hundred and eighty-eight, is hereby amended by striking out in the second and third lines thereof, the words "the body of a deceased person," and inserting in place thereof the words: a human body,—so as to read as follows: *Section 5.* No undertaker, sexton, or other person shall bury in a city or town or remove therefrom a human body until he has received a permit so to do from the board of health or its duly appointed agent, or, if there is no board of health in such city or town, from the city or town clerk. No such permit shall be issued until there has been delivered to such board, or agent or clerk, as the case may be, a satisfactory written statement containing the facts required by this chapter to be returned and recorded, together with the certificate of the attending physician, if any, as required by section three of this chapter, or in lieu thereof a certificate as hereinafter provided. If there is no attending physician, or if the certificate of the attending physician cannot be obtained, for good and sufficient reasons, early enough for the purpose, the chairman of the board of health or any physician employed by a city or town for the purpose shall, upon request of said board, agent, or clerk, make such certificate as is required of the attending physician; and in case of death by violence the medical examiner shall, if requested, make the same. When such satisfactory statement and certificate are delivered to the board of health or to its agent, the board or agent shall forthwith countersign and transmit the same to the clerk or registrar for registration. The person to whom the permit is so given shall thereafter furnish for registration any other information as to the deceased or to the manner and cause of the death, as the clerk or registrar may require. Any person violating any of the provisions of this section shall be punished by a fine not exceeding fifty dollars.

SECT. 3. This act shall take effect upon its passage.

*Approved April 26, 1893.*

## CHAPTER 461 OF ACTS OF 1893.

### AN ACT RELATIVE TO SOLEMNIZING MARRIAGES.

*Be it enacted, etc., as follows:*

SECTION 1. Any rabbi of the Israelitish faith may solemnize a marriage under the same rules, restrictions, obligations and penalties as are imposed by law upon ministers of the gospel in this Commonwealth. Such rabbi must be one duly licensed to act by a congregation of said faith established in this Commonwealth.

SECT. 2. The provisions of section twenty-seven of chapter one hundred and forty-five of the Public Statutes shall apply to such a marriage.

SECT. 3. This act shall take effect upon its passage.

*Approved June 9, 1893.*

CHAPTER 206 OF ACTS OF 1894.

AN ACT RELATING TO RETURNS OF BIRTHS, MARRIAGES, AND DEATHS.

*Be it enacted, etc., as follows :*

Section ten of chapter thirty-two of the Public Statutes is hereby amended by inserting in the first line after the word "town" the words "except Boston," and by adding at the end of said section the words, "the city registrar of Boston shall transmit the copies of his record on or before the first day of May annually," so as to read as follows :

"Section 10. The clerk of each city and town, except Boston, shall annually, on or before the first day of March, transmit to the secretary of the Commonwealth certified copies of the records of the births, marriages, and deaths which have occurred therein during the year ending on the last day of the preceding December. The city registrar of Boston shall transmit the copies of his records on or before the first day of May annually."

*Approved April 5, 1894.*

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CHAPTER 401 OF ACTS OF 1894.

AN ACT CONCERNING THE MARRIAGE OF MINORS.

*Be it enacted, etc., as follows :*

SECTION 1. No town or city clerk or registrar shall receive a notice of the intention of marriage of any male under the age of eighteen years, nor of any female under the age of sixteen years, except as hereinafter provided.

SECT. 2. The judge of probate in any county, after due hearing, may make an order allowing the marriage of a minor under the age specified in the preceding section: *provided*, that said minor resides in a city or town within the county wherein said judge holds court; and *provided, also*, that the father of such minor, or in case of his death the mother, has consented to such order, and that in case neither parent is alive and resident in this Commonwealth a legal guardian has been appointed, whose consent has been given to such order. On the receipt of a certified copy of such order by the clerk or registrar of the town or city where such minor resides, he shall receive the notice required by law and issue a certificate as in other cases.

SECT. 3. This act shall take effect upon its passage.

*Approved May 18, 1894.*

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CHAPTER 402 OF ACTS OF 1894.

AN ACT RELATIVE TO RECORDS OF BIRTHS, DEATHS, AND MARRIAGES.

*Be it enacted, etc., as follows :*

SECTION 1. Section two of chapter three hundred and five of the acts of the year eighteen hundred and ninety-two is hereby amended by striking out all of said section to and including the word "direction," in the fifth line, so as to read as follows :

"Section 2. Whenever it is deemed expedient to make a new copy of any earlier records, each page shall be verified and signed by the clerk or registrar, and such record while preserved in proper custody shall have the same force and effect as the original record."



SECT. 2. No town or city clerk or registrar shall alter or add to any record of a birth, death, or marriage already entered in any book or formal list in his charge, except upon such evidence as was required by law for the original entry, or upon a certified copy of the record of any other city or town, or of the record made at the time by any person since deceased, who was required by law to furnish the evidence of birth, death, or marriage, and such correction shall be at his discretion. In no case shall the first entry be erased, but all corrections shall be added.

SECT. 3. This act shall take effect upon its passage.

*Approved May 18, 1894.*

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## CHAPTER 409 OF ACTS OF 1894.

### AN ACT RELATIVE TO MARRIAGES AND THE ISSUING OF CERTIFICATES THEREFOR.

*Be it enacted, etc., as follows:*

SECTION 1. City clerks and registrars may require notices of intention of marriage to be given to them in writing, on blanks to be furnished by them, by one of the parties to such intended marriage, or by his or her parent or legal guardian, and may require the party giving such notice to make oath before them to the truth of all the statements therein whereof he or she could have knowledge. No fee shall be charged for administering such oath.

SECT. 2. Any city clerk or registrar may refuse to issue a certificate to any parties, in case he has reasonable grounds to believe that any of the statements contained in the notice of intention of marriage are incorrect; but he may, in his discretion, accept depositions under oath, made before him, and such depositions shall be taken and deemed to be sufficient proof of the facts therein stated to authorize the issuing of a certificate. A city clerk or registrar may dispense with the statement of any of the facts required by law to be given in notices of intention of marriage, whenever such facts do not relate to or affect the identity or age of the parties, if he is satisfied that the same cannot be obtained with reasonable effort.

SECT. 3. No city clerk or registrar shall be required to receive notices of intention of marriage at any place except his office, nor shall he be required to receive such notices on the Lord's day or public holidays.

SECT. 4. Whenever, in the marriage of a minor, it is necessary to give notice in two towns or cities, the town or city clerk or registrar who first takes the consent of the parent or guardian shall take it in duplicate, retaining one copy and delivering the other duly attested by him to the party obtaining the certificate, to be given to the clerk or registrar issuing the second certificate; and no fee shall be charged for such consent or copy.

SECT. 5. Any clergyman or rabbi duly authorized to solemnize a marriage in this Commonwealth may perform the ceremony anywhere within the same.

SECT. 6. No person shall give the notice of intention of marriage required by law without the consent of both the parties to such intended marriage, and any person giving such notice without such consent shall be liable in an action of tort to the person whose name was so used without such consent for all damages thereby sustained by such person.

SECT. 7. The superior court, upon petition of either of the parties alleged to intend marriage in a notice of intention of marriage, given

without the consent of both parties therein alleged to intend marriage, and not followed by a marriage between said parties, may, upon such notice as said court may order and after a hearing upon such petition, adjudge that such notice of intention of marriage be cancelled and expunged from the records of the city or town in which the same was recorded.

SECT. 8. Whoever violates any of the provisions of this act shall, upon conviction thereof within one year after such violation, be punished by a fine not exceeding five hundred dollars or by imprisonment in jail or in the house of correction for not more than one year, or both.

*Approved May 19, 1894.*

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## CHAPTER 427 OF THE ACTS OF 1895.

AN ACT RELATIVE TO MARRIAGE AND THE LEGITIMACY OF CHILDREN.

*Be it enacted, etc., as follows:*

Where a marriage contract has been entered into with due legal ceremony and the parties thereafter live together as husband and wife; and where at the time of such marriage ceremony a former husband or wife of one of the parties was living, and the former marriage with such person was still in force; and where such subsequent marriage contract was entered into by at least one of the parties in good faith, in the full belief that the former husband or wife was dead, or that such former marriage had been annulled by divorce; or without knowledge on the part of one of them of such former marriage; and where the impediment to such subsequent marriage existing by reason of the former marriage is removed by the death of the other party to the former marriage, or by a proper decree of divorce, and the parties to such subsequent marriage then continue living together as husband and wife in good faith, on the part of at least one of them, they shall be taken and deemed to have been legally married from and after the removal of such impediment, and the issue of such subsequent marriage shall be deemed to be the legitimate issue of both parents.

*Approved May 29, 1895.*





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# LIST OF CITY CLERKS, 1895.

CITIES.	INCORPORATED.	CLERKS.
Boston . . . . .	1822	{ J. M. Galvin. W. H. Whitmore (Registrar).
Salem . . . . .	1836	H. M. Meek.
Lowell . . . . .	1836	M. J. Dowd.
Cambridge . . . . .	1846	W. W. Pike.
New Bedford . . . . .	1847	D. B. Leonard.
Worcester . . . . .	1848	E. H. Towne.
Lynn . . . . .	1850	C. E. Parsons.
Newburyport . . . . .	1851	G. H. Stevens.
Springfield . . . . .	1852	E. A. Newell.
Lawrence . . . . .	1853	W. T. Kimball.
Fall River . . . . .	1854	G. A. Ballard.
Chelsea . . . . .	1857	G. B. Gurney.
Taunton . . . . .	1864	E. A. Tetlow.
Haverhill . . . . .	1869	W. W. Roberts.
Somerville . . . . .	1871	G. I. Vincent.
Fitchburg . . . . .	1872	W. A. Davis.
Holyoke . . . . .	1873	T. D. O'Brien.
Gloucester . . . . .	1873	J. J. Somes.
Newton . . . . .	1873	I. F. Kingsbury.
Malden . . . . .	1881	L. D. Holden.
Brockton . . . . .	1881	D. C. Packard.
Northampton . . . . .	1883	E. I. Clapp.
Waltham . . . . .	1884	L. N. Hall.
Quincy . . . . .	1888	H. A. Keith.
Woburn . . . . .	1888	J. H. Finn.
Pittsfield . . . . .	1889	E. C. Hill.
Chicopee . . . . .	1890	J. D. White.
Marlborough . . . . .	1890	P. B. Murphy.
Medford . . . . .	1892	A. P. Joyce.
Everett . . . . .	1892	J. H. Cannell.

ANNUAL REPORT

OF THE

REGISTRY DEPARTMENT

OF THE

CITY OF BOSTON,

FOR THE

YEAR 1895.

[The first report of this department was for the year 1849. No report was issued for the years 1860 and 1861. The title-page of the report for 1882 is wrongly printed as Document 89 of 1882, instead of 1883.]



BOSTON:

ROCKWELL AND CHURCHILL, CITY PRINTERS.

1896.



## A MYSTERY OF THE BALLOT.

(From the Nation for April 14, 1892.)

In looking over the pages of the *Historical Magazine* I noticed an article copied from the *Boston Advertiser* for some date about A.D. 1860, calling attention to a matter which has often puzzled those who have counted ballots. It is this: when several persons ballot honestly to choose several persons on one ballot, how is it that more than the necessary number receive a majority of ballots? For example: if five men each vote for three candidates, requiring thus three votes to elect, why is it that more than three of them get three votes? In dealing with larger figures, the number of successful candidates may be so many as to almost double the list. I have known some such instances, and have often heard the statement that the result was impossible and showed evident fraud. After studying the example given in the article quoted, I believe that I discern the principle, a very simple one, but I have never happened to see it stated. I will therefore do so, believing that many persons share my ignorance and will be glad to see an explanation.

The rule seems to be this: multiply the number of officers to be chosen by the number of votes, and divide the result by the number required for an election; the quotient will be the number of persons who can be elected, and the remainder will represent unnecessary or cumulative votes, which may be discarded.

Thus, if five voters each vote for three candidates, a total of fifteen votes is cast; which, divided by three, the number necessary for a choice, gives five candidates receiving a majority vote.

Example:

A	votes for candidates	1, 2, 3.
B	" "	" 1, 2, 3.
C	" "	" 1, 4, 5.
D	" "	" 2, 4, 5.
E	" "	" 3, 4, 5.

The individual ballot might be varied considerably, always resulting, however, in a majority vote for five candidates. In fact, as the majority is always a little more than one-half the number of voters, the quotient in the rule must always be at least one less than double the number of candidates; but the greater the number of voters and candidates, the less the discrepancy will be. In fact, the true answer to the problem seems to be this: the number of candidates receiving a majority may always amount to twice the number voted for on one ballot, *less one* invariably, and also less a few more, according to the results of the rule. But I think it will surprise most persons to find that if 100 persons ballot for 30 candidates, 58 could receive a majority vote, or 51 votes apiece; though a little explanation makes it self-evident.

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BOSTON:  
ROCKWELL AND CHURCHILL, CITY PRINTERS.  
1896.





BOSTON, May, 1896.

HON. JOSIAH QUINCY,

*Mayor of the City of Boston:*

SIR: In compliance with the ordinance, I beg leave to report that, according to our books, there were recorded for the year 1895,

15,613 births { including 191 children of parents usually residing out of this city.  
32 born out of town of Boston parents.

6,799 intentions of marriage.

5,932 marriages solemnized in this city.

878 marriages of citizens married elsewhere in the State, including 125 marriages of citizens married out of the State.

11,331 deaths.

625 still-born children. (See Appendix A.)

As compared with previous years:

	1892.	1893.	1894.	1895.
Births . . .	15,154	14,602	15,401	15,613
Intentions . . .	6,516	6,564	6,251	6,799
Marriages . . .	5,670	5,755	5,464	5,932
Deaths . . .	11,241	11,713	11,531	11,331

#### LEGISLATION.

In the last report the necessity of legislation in regard to the solemnization of marriages was pointed out. A bill was submitted to the Legislature this year, and an act (Chap. 306 of 1896) was passed April 22, 1896, respecting marriages. (See Appendix C.)

It provides that any person, though duly authorized to solemnize marriages, who performs the ceremony without the proper papers from the town and city clerks, or registrars, shall be fined. It is an unfortunate fact that clergymen are careless in this respect, and often marry couples on the production of one certificate where the law requires two, as the parties reside in different towns in this Commonwealth. Occasionally, also, clergymen assume to be judges of the law, and marry couples without certificates, on the plea of



necessity, or because the wedding-party is assembled. It is difficult to see what remedy can be suggested. If a fine is imposed, then wealth will enable any man to secure a legal marriage without complying with the law.

The new act (section two) provides that any person not duly authorized who attempts to perform the ceremony may be fined or imprisoned, the maximum penalty being given. Section three provides that the person performing the ceremony shall be able to read and write the English language, and that all rabbis shall file certificates. The last clause is owing to the fact that rabbis are often appointed for a year, and changes are quite frequent. The intent of the general law and all amendments seems to be to make it easy to find out in the future that all marriages were solemnized by duly qualified persons.

Much good legislation was refused this year by our Legislature. I renew my suggestions of the past two years, that clerks and registrars shall be given official seals, as many States require one to be used in authenticating copies; that some method should be devised for correcting obvious errors without opening the door to fraud; and that parents should be allowed to alter the Christian names of infants under the age of five years.

The usual confusion is made about the "official position" of the minister. This unfortunate phrase misleads a very large number of clergymen, who sign as "clergyman," "priest," "rector," "pastor," etc. I refer the reader to the correspondence with the Corporation Counsel, in Appendix D.

Only one marriage in Boston has been performed during the past year under the assumed authority of the head of the Salvation Army. No steps have been taken by the police authorities to test the law.

In January, 1896, a case occurred when a priest of the Greek church, who had been in this country only two months, and who could read and write only his native language, solemnized a marriage between two Armenians. There were irregularities in the case, which caused an investigation; and, for the protection of other foreigners, equally ignorant of our laws and language, the Legislature has made a necessary change.

The report of the Inspector of Returns for this office, printed in Appendix E, shows the amount of ignorance or carelessness in regard to marriages, which explains the necessity of the work. The number of cases does not represent the amount of time and work expended, for most of the offenders belong to the poorer migratory classes, who

change residences frequently, and who are not at all impressed with the necessity of having their marriages recorded.

In preparing the Consolidated Indexes of Marriages, it was found that from 1849 to 1858, when a special record was made of Boston residents who were married in some other place in the Commonwealth, none of such marriages were reported or recorded. We have some 3,500 instances where intentions were noted, but in the Marriage Index only the name of the town given where the parties said they intended to be married. It is hoped that by systematic search in these town records a large proportion of these marriages can be verified, and I have taken preliminary measures therefor.

I am very happy to report that the original records of marriages performed by Rev. Sebastian Streeter, of the First Universalist church, and by his son-in-law, Rev. Thomas H. Skinner, of Pine Street church, have been found, and lent to this department to be copied. As time allows I hope to extend this system of verification to other churches in Boston for the first half of this century.

The special work on Indices was completed early in 1895, and that item of expense closed. The usual amount of repairs and binding has been done, and the records are in a satisfactory condition.

The usual list of aged citizens deceased in 1895 is given in Appendix B.

#### ANCIENT RECORDS.

During 1895 the 26th Report of the Record Commissioners was published; volume 27 well advanced: and the volume of the Marriages and Banns (1700-1800) pushed as fast as consistent with careful supervision. Of the earlier issues, the missing plates have been supplied for Volumes 9, 11, 16, 17, and 21, leaving Volumes 12, 13, 18, and 19 to be done. These plates amount to about 1,000 pages, but I hope to complete them during the year.

The second volume of the Mayors' Inaugural Addresses is in the press, and will be completed this year.



The financial statement of this branch of the department, as kept on the books of the Superintendent of Printing, is as follows :

*Cr.*

Balance on hand February 1, 1895 . . . . .	\$3,522 16 .
Appropriation for 1895 . . . . .	3,000 00
	<hr/>
	\$6,522 16
	<hr/>

*Dr.*

Printing, etc., Vol. 24, Commissioners' Reports, in part . . . . .	\$65 95
Printing, etc., Vol. 25, Commissioners' Reports, . . . . .	1,233 97
Printing, etc., Vol. 26, Commissioners' Reports, in part . . . . .	655 11
Printing, etc., Vol. 27, Commissioners' Reports, in part . . . . .	491 86 .
Printing, etc., Vol. 28, Commissioners' Reports, in part . . . . .	257 40
Printing second volume, Mayors' Addresses, in part . . . . .	132 60
Completing plates of five former reports . . . . .	542 29
Sundries . . . . .	27 25
	<hr/>
	\$3,406 43
Balance on hand February 1, 1896 . . . . .	3,115 73
	<hr/>
	\$6,522 16
	<hr/>

Respectfully submitted,

WILLIAM H. WHITMORE,  
*City Registrar.*

FINANCIAL STATEMENT.

Cash on hand February 1, 1895 (City Doc. No. 67)	\$176 00
Appropriation for 1895	33,000 00
	<hr/>
	\$33,176 00

RECEIPTS.

Received for Marriage Licenses, from February 1, 1895, to January 31, 1896, inclusive:

Nos. 514 @ 6,799, of 1895, = 6,286 certificates	
Nos. 1 @ 565, of 1896, = 565 "	
	<hr/>
6,851 " @ 50c. =	3,425 50
	<hr/>
	\$36,601 50

EXPENDITURES.

Salaries, regular employees	\$19,352 21
Collecting births of 1894	1,743 45
Extra work on Consolidated Indexes	4,003 65
Binding old records in office	1,016 25
Printing and stationery	1,537 61
Sundries	310 63
Salary of John C. Short, deceased	1,074 09
Paid printing 1,000 copies Bunker Hill Tablets,	801 14
Transfer by Auditor January, 1896	2,500 00
" " February 1, 1896	660 97
	<hr/>
	\$33,000 00

Paid physicians for 12,713 births at 25c., reported from February 1, 1895, to February 1, 1896, as per vouchers paid in by me to the Auditor, viz.:

February 1 to April 30, '95	\$610 75
May 1 to June 30, '95	688 25
July 1 to October 31, '95	715 00
Nov. 1, '95, to February 1, '96,	1,164 25
	<hr/>
	3,178 25
Cash paid City Collector, per voucher	200 00
	<hr/>
	\$36,378 25
Cash balance February 1, 1896	223 25
	<hr/>
	\$36,601 50



## APPENDIX A.

## Still-Births for 1895.

	M.	F.	U.	Total.
January .....	20	17	.....	37
February .....	24	23	1	48
March.....	36	14	2	52
April .....	39	22	2	63
May.....	20	21	1	42
June .....	31	28	.....	59
July.....	35	29	.....	64
August.....	44	23	.....	67
September .....	36	16	.....	52
October .....	22	18	.....	40
November .....	33	16	.....	49
December .....	27	24	1	52
Total.....	367	251	7	625

Included in the above table are thirteen *Colored* Still-Births, eight males and five females.

	M.	F.	Total.
January .....			
February.....			
March .....	1	.....	1
April .....	1	.....	1
May .....	.....	1	1
June.....	1	1	2
July .....	2	1	3
August.....	1	.....	1
September .....	2	1	3
October .....	.....	1	1
November .....			
December .....			
Total .....	8	5	13

## APPENDIX B.

PROMINENT PERSONS ON ACCOUNT OF AGE OR SERVICE  
WHO DIED IN 1895.

DATE OF DEATH.			AGE.
1895.			
Jan.	1	Andrew J. Parker . . . . .	85
	1	Mary T. Lovering . . . . .	81
	2	Xavier Vanheick . . . . .	90
	3	Elizabeth Duncan (colored) . . . . .	91
	4	Catherine Hennessey . . . . .	85
	4	Lois P. Edes (widow of Rev. Edward H.) . . . . .	86
	5	Eliza W. Hurd . . . . .	95
	5	Liberty D. Packard (M.D.) . . . . .	63
	6	Elizabeth S. Stearns . . . . .	89
	6	Julia A. Jewett . . . . .	89
	6	William A. Prescott . . . . .	76
	7	Lois H. Higgins . . . . .	82
	7	Mary A. Fairbanks . . . . .	77
	7	James K. Barber (Ex-Policeman) . . . . .	60
	8	Henry D. Todd . . . . .	85
	8	Celia Dever . . . . .	84
	8	Henry Harris (M.D.) . . . . .	80
	9	Eliza Sargent . . . . .	79
	10	Joseph B. Norris . . . . .	79
	10	Mary Brosnan . . . . .	83
	10	Mary Quigley . . . . .	83
	10	Joseph A. Griffen . . . . .	79
	11	Mary Duffey . . . . .	88
	11	Rebecca S. Gowen . . . . .	90
	12	Timothy Sullivan . . . . .	90
	12	Stephen F. Hemenway . . . . .	75
	13	Lawrence M. A. Corcoran (Rev.) . . . . .	45
	14	Charles Smith . . . . .	80
	15	George L. Starkey . . . . .	85
	15	Joseph Stedman . . . . .	89
	15	Almira B. Haskell . . . . .	81
	16	Welthea F. Snow . . . . .	83
	16	Lucy Sabine . . . . .	83
	17	Margaret O'Leary . . . . .	85
	17	Robert P. Stack (Rev.) . . . . .	48
	19	Henry Quinn . . . . .	84
	20	Bridget F. Goodhue . . . . .	80
	21	Ellen Barrett . . . . .	79
	21	Abraham A. Call . . . . .	77
	21	William M. Yale (Veterinary Dentist) . . . . .	73
	24	Henry B. Ward . . . . .	85
	24	Charlotte F. Pope . . . . .	93
	24	Mary Nicholson . . . . .	84
	25	Sophia Loring . . . . .	80
	25	Susan L. Sawyer (Teacher) . . . . .	85
	26	Catherine Tracy . . . . .	85



## DATE OF DEATH.

## AGE.

1895.

Jan.	27	William Ross	83
	28	Mary McKay	85
	28	Martha M. Clapp	82
	29	Bridget Brennan	83
	29	Hannah B. Adams	90
	31	Caroline D. Campbell	84
	31	Elizabeth R. Porter	80
Feb.	1	Susan B. Miller	80
	2	Adoniram J. Gordon (Rev.)	58
	3	David Easton (colored)	86
	3	Syrene McDonald	88
	3	Mary Gilese	82
	3	John Barney	83
	5	Josephine Miller	86
	5	Harriet S. Seavey	87
	6	Catherine A. Smith (colored)	82
	7	Mary Calnan	89
	8	Alexander Macdonald	85
	9	Washington Keyes	80
	9	Harriet Asten	81
	9	Catherine S. Smith	83
	10	Henry Pigeon	85
	10	Mary H. Saltmarsh	83
	10	Julia A. Parker	86
	10	William J. Doole	79
	10	Lewis Coleman	77
	10	Catharine Kennedy	90
	11	Richard Nichols	82
	11	Margaret Kelly	96
	11	Sarah D. Plimpton	80
	11	Sarah Flinn	81
	11	Julia D. Stuart	82
	12	Mary Houghton	85
	13	Izetta Ryan	89
	13	George C. Fernald (Captain of Engine 29)	61
	14	Horatio W. Avery	79
	14	Letitia Coulter	92
	14	Elizabeth H. Jackson	91
	14	Ellen Ring	95
	14	Mary Pope	85
	14	Cornelius M. O'Connor (Rev.)	32
	14	Mary O'Brien	81
	14	Samuel T. Hitchcock (Ex-Policeman)	58
	15	Henrietta M. Wigglesworth	90
	15	Mary P. Ripley	84
	17	Charity Willey	84
	17	Jacob M. Wells	82
	17	Wilhelmina Hoehle	80
	17	Henry M. Goodwin	85
	17	Thomas W. Clarke (Lawyer)	60
	18	Daniel E. King	80
	19	Antonio Bacigalupo	83
	19	Sally Page	80
	20	Joseph M. Dane	86
	20	Thomas Reeves (Teacher)	52
	21	Margaret Younger	87
	22	Jonathan Neal (Clergyman)	65
	22	John G. Schuh	79

# REGISTRY DEPARTMENT.

9

DATE OF DEATH.

AGE.

1895.

Feb.	23	Mary McCormick . . . . .	89
	23	Bridget Corlace . . . . .	86
	23	Eliza Swain . . . . .	83
	24	Andrew J. Meserve . . . . .	80
	24	Stephen Cooney . . . . .	85
	24	Julia Powers . . . . .	92
	25	Almira J. Curtis . . . . .	90
	25	Mary A. Wright . . . . .	87
	25	George C. Stuart . . . . .	81
	25	Mary Daly . . . . .	94
	26	James Sullivan . . . . .	83
	26	Catherine Lynch . . . . .	80
	27	John W. Adams (Music Teacher) . . . . .	72
	28	Walter Howe . . . . .	83
	28	Mary Corcoran . . . . .	81
	28	Phebe J. Chapin . . . . .	85
	28	Mary S. Hennessey . . . . .	85
	28	Mary Covell . . . . .	88
March	1	Mary J. Brown (colored) . . . . .	90
	1	Frances A. Shute . . . . .	88
	1	Ellen Harrington . . . . .	94
	1	Benjamin F. Palmer (Assistant Assessor) . . . . .	71
	2	Julia Collins . . . . .	83
	2	Henry A. Chase (Director Police Signal Service) . . . . .	54
	2	John E. Killian (Postmaster) . . . . .	54
	2	Sybil A. Branch . . . . .	90
	3	Jane Carlton . . . . .	84
	4	Charles Egan (Rev.) . . . . .	80
	4	Sarah McCammon . . . . .	86
	4	Henry Brower . . . . .	88
	5	Sarah Balcom . . . . .	79
	6	Redmond McGrath . . . . .	79
	6	George H. Smith . . . . .	79
	6	Joseph Nickerson . . . . .	82
	6	Eliza M. Campbell . . . . .	85
	6	John K. Wight . . . . .	97
	6	Jane Barnard . . . . .	88
	6	William H. Thomes (Publisher) . . . . .	70
	7	Sarah J. Reagh . . . . .	80
	7	Mary E. Estes . . . . .	80
	8	George E. Cranston (Rev.) . . . . .	48
	8	Lydia G. Barker . . . . .	87
	9	Thomas Motley . . . . .	83
	10	Catharine H. Vinal . . . . .	83
	10	Maria H. Cummings . . . . .	81
	11	Charles Fay (Solicitor) . . . . .	53
	12	David R. Myrick . . . . .	85
	13	Mary A. Laing . . . . .	89
	14	Elizabeth Kingsbury . . . . .	94
	15	Elizabeth Dunn . . . . .	82
	16	Henry Wiltse . . . . .	82
	16	Mary Cogan . . . . .	84
	16	Cyrus Small (Ex-Superintendent of Police) . . . . .	74
	16	Harriet Osgood . . . . .	90
	16	Jeremiah Abbott . . . . .	71
	16	Mary A. Guild . . . . .	86
	18	Loring E. Beckwith (Professor) . . . . .	50
	18	John H. Hoss . . . . .	81



## DATE OF DEATH.

## AGE.

1895.

Mar.	19	Leonidas H. Ingraham (Journalist)	70
	20	Elizabeth Carpenter	83
	21	Mary McGarry	92
	22	Susan J. Willard	80
	22	Mary Murray	89
	22	Thomas Restieaux (Druggist)	48
	22	Michael Kennedy	84
	23	John J. Flanagan	95
	23	Peter Wilson	80
	23	Ann Smith	90
	23	Thomas F. Gerraughty (Police Inspector)	51
	23	Charles S. Melcher	82
	23	George P. Lovering (Custom Officer)	57
	24	William Callan	85
	24	Ellen T. Smith	83
	24	Catharine Bonner	88
	24	Robert A. Green (M.D.)	33
	25	Almira D. Kelton	84
	25	James S. Bent	89
	26	Joanna Hallahan	96
	26	Mary D. Litchfield	82
	27	Isaac Flagg	89
	28	Mary B. Randall	86
	28	Anna Doherty	81
	28	Emily Bolter	90
	28	Ebenezer Low	80
	29	Anna Cushing	80
	29	Katherine Early	86
	30	Charles B. Fox (Real Estate Dealer)	62
	31	Margaret A. Huntington	80
	31	Louisa Grothusen	82
April	1	Charlotte Foster	87
	2	Mary Hall	87
	2	Walter E. S. Davis (Teacher)	34
	3	Samuel Atherton	80
	3	Lauchlan McKay	83
	3	Nancy Crossman	84
	3	Adoniram Hathaway	88
	4	Sarah Chandler	91
	4	Margaret Connors	90
	7	Caroline Budd	90
	7	George W. Claypole	83
	7	Nancy H. Elms	80
	9	Theodore Gardner	85
	9	Margaret Sheridan	80
	10	Arthur Hodges (M.D.)	50
	12	Joseph M. Skally (Veterinary Surgeon)	37
	12	Mary Johnson	82
	12	Sarah Seaverns	88
	12	Joseph C. Tilton	82
	13	Hannah W. Kimball	85
	13	Thomas Hurley	80
	13	Henry E. Mann	75
	13	George Abbott	79
	14	Margaret A. Perley	85
	14	William M. Cornell (M.D.)	94
	15	John Hatchman	79
	15	Lucy E. Slade	77

# REGISTRY DEPARTMENT.

11

DATE OF DEATH.

AGE.

1895.

April	15	Sophia E. Troop . . . . .	85
	15	Mary Finn . . . . .	89
	17	Seth C. Ames (M.D.) . . . . .	79
	18	Sarah H. Sturtevant . . . . .	91
	19	Elizabeth P. Wilson . . . . .	84
	20	Eunice T. Birch . . . . .	87
	20	Aaron W. Wright . . . . .	82
	21	Ellen Cazmay . . . . .	84
	22	Mary B. Tuttle . . . . .	92
	22	Susan Fay . . . . .	79
	22	George W. Leonard . . . . .	80
	23	Lucy M. Prince . . . . .	83
	25	Mary J. Anderson . . . . .	88
	25	Elisha Tucker . . . . .	81
	27	Susan B. Cushing . . . . .	89
	28	Mary Meskill . . . . .	80
	28	Mary Collins . . . . .	83
	30	Jane Chisholm . . . . .	84
	30	John McLaughlin . . . . .	84
May	1	Louisa Pierce . . . . .	85
	3	William I. Blackman (Inventor) . . . . .	76
	3	Patrick H. Campbell (M.D.) . . . . .	27
	3	William R. Clark . . . . .	81
	3	Betsey M. Kelly . . . . .	85
	4	Harriet P. Slate . . . . .	87
	4	Francis Brown . . . . .	92
	5	Richard T. Lynch (Rev.) . . . . .	26
	6	Mary E. Misener . . . . .	83
	6	Nancy J. Green . . . . .	89
	6	Lucretia Henson (colored) . . . . .	95
	8	Artemas Barnes . . . . .	82
	9	Mary Burke . . . . .	80
	10	Mary Walton . . . . .	82
	10	John Averett (colored) . . . . .	92
	10	Amos C. Clapp . . . . .	81
	11	David Youngman (M.D.) . . . . .	77
	11	Lydia Berry . . . . .	93
	12	Eliza Temple . . . . .	87
	12	Miranda Williams . . . . .	80
	13	Elizabeth G. Jaquith . . . . .	81
	13	Jedediah N. Morrill . . . . .	89
	13	Thomas Rogers . . . . .	86
	13	James T. White . . . . .	79
	13	Isaac Hall . . . . .	90
	16	Ann Mulvey . . . . .	81
	16	Caroline E. Sweetser . . . . .	85
	16	Charles W. Osgood (M.D.) . . . . .	56
	17	Margaret Clancy . . . . .	80
	18	Elisha G. Tucker (Dentist) . . . . .	86
	18	Thomas Godvin . . . . .	81
	19	Carolina J. Dale . . . . .	80
	20	Patrick Connell . . . . .	80
	21	Mary Ryan . . . . .	95
	22	Otis Little . . . . .	86
	23	Martin Bendan . . . . .	87
	26	Agnes H. Smith . . . . .	90
	26	Belinda W. Chambers . . . . .	89
	26	Michael T. Donahoe . . . . .	56



## DATE OF DEATH.

## AGE.

1895.

May	27	William McFarland	80
	27	Eustace C. Fitz	62
	27	Ann Carney	89
	28	Ephraim Lewis	84
	29	Clarissa Robinson (colored)	85
	29	Betsey Burt	87
	30	John F. Andrew (Lawyer)	44
	30	Margaret McAuliffe	80
	31	Sarah J. Nerland	84
	31	Margarida J. Feizeira	80
	31	Mary E. Henning	87
	31	Nancy Williams (colored)	82
	31	Alvin Cleveland	87
June	1	Thomas Burket	80
	1	Samuel Tay	84
	2	Mary Sullivan	88
	2	Mary A. Leman	80
	2	William S. Kendall (Policeman)	63
	2	Benjamin C. Rogers	85
	2	Charles R. Todd (Secretary of Gaslight Co.)	60
	4	John Thomas	83
	6	Mary W. Lawrence	88
	7	Almira Balkam	86
	8	Harvey T. Davis (Lawyer)	57
	10	Silas S. Putnam (Inventor)	73
	11	Honora Sheil	80
	12	Alvah Littlefield (Druggist)	77
	12	Asa Farwell	78
	14	Alonzo A. Miner (Rev.)	80
	14	Abby E. Stone	81
	16	Albert S. Stafford	37
	17	Irene Williams	81
	17	Charles W. Kennard (Jeweller)	60
	18	Emeline Cushing	82
	18	Norah O'Connor	80
	19	Mary Monahan	80
	20	Thomas Mansfield	84
	20	Charles S. Parker (Roofer)	78
	22	Judith Blessington	80
	22	Pamelia Whitman	89
	25	Sarah A. Chandler	83
	25	Maria Yapp	85
	25	Mary Shepard	80
	26	Ann Griffin	85
	26	Abijah Woodward	84
	26	William Pulsifer	86
	27	Eliza McCarthy	80
	28	Daniel D. Winn (Rev.)	72
	30	William H. Bangs	81
July	4	Margaret Devine	85
	4	Sophinie Dolan	85
	5	Joseph Hutchinson	82
	7	John Foster Hewins (District Fire Chief)	57
	8	Mary Casey	86
	8	Mary Stewart	85
	9	John B. Margeson	83
	10	Harriet N. Carpenter	85
	11	Mary A. Morse	79

# REGISTRY DEPARTMENT.

13

DATE OF DEATH.

AGE.

1895.

July	12	Ann Sweeney	84
	12	Thomas O. Hollis	89
	12	Mary E. Adams	89
	13	George N. Thomson (M.D.)	82
	14	Horace P. Chadbourn	82
	14	Eunice C. Bennett	81
	15	Patrick McBarron	90
	15	William Johnson	82
	15	Lucy D. Brooks	85
	21	Mary Thompson	83
	21	Windsor Hatch	78
	21	Thomas Dean (Lawyer)	60
	22	Elbridge G. Scott	84
	23	Margaret Regan	96
	26	Johana Buckley	95
	27	Cornelius N. O'Leary	83
	27	Mary J. Gray	82
	27	Maria S. P. Miner (widow of Rev. Alonzo A.)	80
	28	John Gormley (Rev.)	42
	28	Lucy R. Staniford	83
	29	Guy A. T. Lincoln (M.D.)	44
Aug.	1	Ruth Wilson	87
	1	Patrick Connell	81
	1	Mary Coughlin	85
	1	Mary McManus	81
	2	John Moore	81
	5	Aurelia Bacall	80
	6	Ann B. W. Campbell	81
	6	Edward Foley	86
	7	Lucinda Thurston	82
	8	Hannah Malloy	85
	8	Mary Dee	84
	8	Caroline A. Neal	85
	10	Johanna Callahan	80
	11	Hannah B. Tolman	86
	12	Bridget McMahan	87
	13	Abigail Daly	80
	13	Patrick Lynch	80
	14	Honorah Paul	90
	14	Catherine Stearns	95
	14	William Chadbourne (Ex-Police Captain)	77
	15	Eliza Eldridge	87
	16	Hugh Gilmore	84
	16	Bridget O'Brien	80
	17	Mary A. Dennis	80
	18	Elizabeth Hatfield	102
	21	John D. Dickson	85
	22	Adeline J. Florence	82
	22	Ellen M. T. Pierce	83
	24	William B. Harding	82
	24	Honora Brick	82
	25	Clara A. Snell	86
	25	Mehitable Gordon	81
	26	Amanda A. Bearse	81
	26	Sally E. Longley	98
	27	Henry Gordon (colored)	80
	27	Calvin Stone (Sexton)	78
	27	Thomas O'Hearn	87



## DATE OF DEATH.

AGE.

1895.

Aug.	30	Sarah A. Allen	79
	30	Albert E. Caiger (M.D.)	37
	30	Mary H. Wright	83
	31	Margaret Walsh	85
Sept.	1	John Galvin	82
	2	Charlotte R. Butler	84
	2	Sarah Coulter	82
	3	Michael Merrick (Police Captain)	55
	4	William Frye (Building Inspector)	73
	5	Elias Kempton	81
	5	Bridget Lane	81
	6	Annie Doherty	83
	6	William H. Ladd (Teacher)	70
	8	Dora Jones	80
	8	Elizabeth Whiting	81
	9	Catherine Clark	84
	11	Thomas B. Porter	87
	11	Sophia A. L. Edwards	88
	12	Alfred H. Haven (M.D.)	60
	13	Isaac S. Burrill (Street Commissioner)	74
	14	Ezra Paine (M.D.)	78
	16	Catherine Delay	91
	17	Katherine Foley	80
	17	Mildred White	85
	17	William Curley	83
	18	Burkhardt Bernhardt (Interpreter)	52
	19	Mary J. Hoffs	80
	19	Calvin P. Moore (Master Mariner)	78
	20	Robert Williams (colored)	97
	21	Elizabeth L. Wyman	82
	21	Harriot Baker	91
	22	Ellen Wall	84
	22	Sarah A. Pentz	88
	23	Sarah A. Hathaway	84
	25	Elizabeth Black	91
	26	Rebecca M. Dwelley	90
	26	Alexander D. Cox (M.D.)	75
	27	Elbridge G. Currell	85
	30	Maria Smith	87
	30	Annie Craigen	80
Oct.	1	Louisa S. Heincke	83
	1	Ellen B. McLaughlin	87
	2	Patrick Lawler	84
	3	Abbie B. Horn	82
	3	Harris A. Hall	83
	4	Samuel B. Pierce	89
	4	Robert M. Lapham	81
	5	Cyrus White	80
	7	Isabella Marchbank	85
	7	Mary Fitzgerald	82
	7	Michael J. Moloney (Rev.)	26
	7	Patrick Grant	86
	9	Samuel K. Dorrance	80
	9	Michael Higgins	86
	9	John C. Hewins	90
	11	Francis Allen	89
	12	Antoinette Murray	82
	13	Michael Murphy	85

REGISTRY DEPARTMENT.

15

## DATE OF DEATH.

1895.

AGE.

Oct.	16	Mary Kelleher	82
	16	Cornelius Cahill	81
	16	Benjamin Cushing (M.D.)	73
	17	Huldah B. Hardy	83
	17	Hannah Moody	84
	18	Justin H. Lewis	92
	18	Hannah Cassidy	81
	19	Rosanna Glackin	89
	20	John R. Buckley	80
	21	Geneora Singler	87
	21	Minnie Warden (colored)	92
	22	Daniel J. Brown	80
	23	Mary Ryan	92
	24	Adaline Stone	79
	25	Bridget Navin	80
	26	Jonas Hallstram	80
	28	Helon K. Hilton	82
	30	Maria C. Moseley	94
	30	John P. T. Percival (Druggist)	77
	30	Annie Bayarsky	83
Nov.	1	Nancy L. Foster	85
	1	John A. Nixon	79
	1	Thomas Conley	80
	2	George S. Converse (Rev.)	67
	2	Reuben H. Greenleaf	81
	3	Harriet S. Riley	82
	4	Charles T. Needham	83
	4	Deborah Hall	84
	4	Asa Lewis	80
	4	Catherine Sullivan	82
	4	Donald Ferguson	85
	4	Aaron S. McIntosh	76
	5	Mary A. Lyons	94
	6	Anna M. Turner (wife of City Treasurer)	73
	6	Mary Daly	95
	7	Nancy T. Howe	84
	7	Marciano Santosousso	81
	8	Mary J. May	81
	8	Lydia R. Bigelow	90
	9	Benjamin F. Marsh	83
	10	Mary S. Pearce	88
	10	John B. Hebron (Lawyer)	50
	12	Lucy Cutler	82
	12	Sarah Hines	80
	13	Anabella Kelly	85
	14	Hannah D. Drake	83
	14	George Booker	79
	15	George B. Nichols	75
	15	Sarah J. Lowry	81
	15	Emlie Contant	86
	15	Eben D. Jordan	73
	16	Samuel F. Smith (Rev.)	87
	17	Michael Kelley	82
	19	Winifred Donavan	81
	19	Frances W. Simpson	96
	20	Mercy A. Smith	86
	20	Thomas Jantzen	80
	21	Abigail Tripp	87



## DATE OF DEATH.

## AGE.

1895.

Nov.	23	Mary A. Glover	86
	25	Thomas Cunniff	85
	26	Joshua Mahoney	80
	27	William T. Tucker	82
	27	Octavius B. Frothingham (Rev.)	73
	27	Catherine Bennett	96
	28	Mary R. Amory	90
	29	Johanna White	96
	29	Anna Sears Amory	81
	30	Sophronia Davis	87
Dec.	2	Elizabeth M. Clapp	84
	2	Margaret Callahan	80
	3	Sarah Donnelly	85
	3	John Daly	80
	4	Lucinda W. Carpenter	83
	4	Mary Johnson	90
	5	Ann Plunkett	85
	6	Brice S. Evans	74
	6	Timothy O. Paine (Rev.)	71
	6	Seth J. Thomas (Lawyer)	88
	7	Bridget Foley	84
	7	Martha J. Dadmun (widow of Rev. John W.)	70
	9	Juliette Shepardson	80
	9	Eliza Cassell	94
	10	Simon Dooley	79
	10	Catharine White	83
	10	Thomas P. Proctor (Lawyer)	64
	11	Sarah A. Lewis	82
	11	James M. Brigham	90
	11	Sarah H. Hunt	80
	14	Margaret Asburn	81
	14	Ellen Welsh	85
	14	John Heard (M.D.)	81
	14	Maria Emery	79
	15	Thomas Hill	75
	15	Christopher Hackett	82
	15	Thomas Reynolds	82
	16	Abigail W. Morrill	82
	16	Mary F. Geyer	90
	17	Jane E. Blake	84
	17	Sarah N. Williams	81
	17	Martha G. Thayer	82
	17	Gideon Jenkins	82
	17	Thomas Cushing (Teacher)	82
	18	Abbey Lyons	101
	18	Alva J. Wilson (Foreman in Street Department)	54
	19	Hugh Driscoll	83
	19	Sarah Barry	80
	19	Harris Warshafsky	88
	20	Edward Farrell	80
	20	Susan Crosby	92
	22	Ruth Clark	84
	22	Bridget Noonan	85
	24	Mary Ferguson	94
	24	Daniel Titus	90
	24	Nancy Fuller	88
	24	Oliver M. Orr	85
	25	Davis Litchfield	86

# REGISTRY DEPARTMENT.

17

DATE OF DEATH.

AGE.

1895.

Dec.	26	Edwin S. Creed (M.D.)	.	.	.	.	.	.	58
	27	Patrick Flannigan	.	.	.	.	.	.	83
	28	James McGue	.	.	.	.	.	.	84
	28	Samuel H. Gooding	.	.	.	.	.	.	83
	28	William K. Ripley (M.D.)	.	.	.	.	.	.	62
	28	Edward P. Blodgett (Rev.)	.	.	.	.	.	.	80
	28	Ezra S. Jackson	.	.	.	.	.	.	86
	30	William Reardon	.	.	.	.	.	.	80
	31	Mary O'Brien	.	.	.	.	.	.	88
	31	Bridget Hilliard	.	.	.	.	.	.	82



## APPENDIX C.

## ACTS OF 1896.—CHAPTER 306.

## AN ACT RELATIVE TO MARRIAGES.

*Be it enacted, etc., as follows:*

SECTION 1. Any person duly authorized to solemnize marriages in this Commonwealth who shall join in marriage persons who have not complied with the statutes in regard to procuring certificates of notice of intention of marriage shall be punished by a fine not exceeding five hundred dollars.

SECT. 2. Whoever, not being duly authorized by the statutes of this Commonwealth, undertakes to join persons in marriage in this Commonwealth shall be punished by a fine not exceeding five hundred dollars or by imprisonment in jail or in the House of Correction not exceeding one year, or by both such fine and imprisonment.

SECT. 3. Sections twenty-five and twenty-six of chapter one hundred and forty-five of the Public Statutes are hereby repealed.

SECT. 4. No person shall solemnize a marriage in this Commonwealth unless he is able to read and write the English language, and no rabbi of the Israelitish faith shall solemnize marriage until he has filed with the clerk or registrar of the town or city where he resides a certificate of the establishment of the synagogue of which he is rabbi, and of the date of his appointment thereto, and of the term of his engagement.

*Approved April 22, 1896.*

## APPENDIX D.

BOSTON, November 1, 1895.

HON. ANDREW J. BAILEY, *Corporation Counsel*:

SIR: By Acts of 1892, chapter 300, the person solemnizing a marriage is to attest it by his signature, "with his *official station* and residence added thereto."

The law elsewhere states that a "minister of the gospel," "rabbi," or "justice of the peace," may join parties in marriage. The words "official station" are not used anywhere else in the law.

The question is whether the celebrant must use one of the above phrases, or can he use something entirely different as his official position.

For example, I presume that "clergyman" or "priest" may be a common synonym for "minister of the gospel." But is the word or abbreviation "Rev." a sufficient description of "official station"?

Again, are the words "pastor" of such a church, or the word "rector," or "rector of St. John's church," enough?

I have, literally, scores of these variations every month, and I do not know what to do.

The law above quoted directs me to record all certificates "so returned," viz., with name, official position, and residence affixed.

Am I authorized in recording a certificate not fully filled out, or if the official position is not set forth?

I have supposed that the words "official position" were meant to express the capacity or office in virtue of which the person solemnized the marriage; and that description being recorded was *prima facie* evidence of his authority. Hence the importance of a clear definition of the phrase.

Yours very respectfully,

WILLIAM H. WHITMORE, *City Registrar*.

BOSTON, November 14, 1895.

WILLIAM H. WHITMORE, ESQ., *City Registrar*:

DEAR SIR: In answer to your communication, asking "Whether the person who solemnizes a marriage must use as the name of his official station words which show that he comes under the provisions authorizing the solemnizing of marriages," I have to say that, in my opinion, the law requires that they use such words; that is, a person officiating at a marriage should, if he is a justice of the peace, give as his official designation that of "justice of the peace," or, if he be a minister of the gospel, he should sign as "minister," "rabbi," etc., using the term distinctly designating the office by virtue of which he solemnizes marriages. I do not think, however, that you can refuse to record certificates which do not have these designations. The law provides, section 24, as amended by the acts of 1892, chapter 300, that parties shall return a copy of the certificate, — or of either certificate, in case two are issued, — to the clerk or registrar of the city or town in which the marriage was solemnized; and that "all certificates or copies so returned shall be recorded by the clerk or registrar receiving the same." The law provides that each certificate or copy shall contain a statement, giving the official station and residence of the person performing the marriage, and such person is liable for not conforming to the law; but I think the responsibility is on you to see if you cannot get hold of him and have him complete his certificate, or else prosecute him for not complying with the law. Even if you do not get the person to complete his certificate, I think you must record it.

ANDREW J. BAILEY, *Corporation Counsel*.



APPENDIX E.

BOSTON, January 1, 1896

WILLIAM H. WHITMORE, Esq.,

*City Registrar :*

SIR: I respectfully submit herewith a report of the results of my investigations, as Special Inspector of this department, from July 1, 1894, to July 1, 1895, viz. :

A period of six months is allowed after the issue of a certificate.

Number of marriage licenses not returned and investigated . . . . .	290
Number married and now recorded . . . . .	67
Number married out of the State and now recorded . . . . .	8
Married but clergymen cannot be traced . . . . .	3
Number of licenses not used and returned . . . . .	50
Balance impossible to trace . . . . .	162
	290

Inaccurate marriage returns from Oct. 1, 1895, to Jan. 1, 1896 . . . . .	274
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Corrections made therein :

Residences . . . . .	145
Places of marriage . . . . .	63
Official positions . . . . .	32
Blank certificates . . . . .	12
Dates . . . . .	9
Certificates remailed to proper officials . . . . .	5
Alterations . . . . .	4
Marriages without licenses . . . . .	4
	274

Inquiry among clergymen, during the year, has enabled me to place some 20 old marriages upon the records, and has also led to the return of about 150 marriage licenses, taken out in previous years but not used.

I remain, very respectfully yours,

GEORGE D. WHITE,  
*Special Inspector.*

## APPENDIX F.

## INTRODUCTION.

For many reasons it seems desirable to collect in chronological arrangement, the laws relating to marriages and the registration thereof, from the date of the establishment of the Commonwealth.

The history of the marriage laws prior to that date has been admirably set forth by Chief Justice HORACE GRAY of our Supreme Court, in the case of *Commonwealth v. Munson*, decided in Oct., 1879, and reported in 127 Mass. Reports.

With the consent of the Reporter of Decisions, the opinion is given in full.

W. H. W.

OPINION OF THE SUPREME COURT IN THE CASE OF  
COMMONWEALTH *v.* MUNSON.

GRAY, C. J. In Massachusetts, from very early times, the requisites of a valid marriage have been regulated by statutes of the Colony, Province, and Commonwealth; the canon law was never adopted; and it was never received here as common law, that parties could by their own contract, without the presence of an officiating clergyman or magistrate, take each other as husband and wife, and so marry themselves. *Milford v. Worcester*, 7 Mass. 48, 53. 2 Dane Ab. 291, 301. 2 Winthrop's Hist. New England, 43. This clearly appears on tracing the history of the legislation upon the subject; the whole of which, whether repealed or unrepealed, is by a familiar rule to be considered in ascertaining the intention of the Legislature. *Church v. Crocker*, 3 Mass. 17, 21. *Eaton v. Green*, 22 Pick. 526, 531. *Commonwealth v. Bailey*, 13 Allen, 541, 545.

As early as 1639, it was "ordered and declared" by the General Court, "that there be records kept of the days of every marriage, birth and death of every person within this jurisdiction." 1 Mass. Col. Rec. 276. Anc. Chart. 43. In 1642, it was enacted that "the magistrates and other persons appointed to marry shall yearly deliver to the recorder of that court which is nearest to the place of their habitation the names of such persons as they have married, with the days, months and years of the same; and the said recorders are faithfully and carefully to enrol such marriages as shall thus be committed to their trust;" and in 1644,



every new-married man was required "to bring in a certificate of his marriage, under the hand of that magistrate which married him, to the clerk of the writs," to be recorded. 2 Mass. Col. Rec. 15, 59. Mass. Col. Laws (ed. 1660) 68; (ed. 1672) 130. Anc. Chart. 181.

The requisite of solemnization before a magistrate or other authorized person, as essential to constitute a valid marriage, which had been clearly implied in these statutes, was distinctly expressed in the following statute of 1646: "As the ordinance of marriage is honorable amongst all, so should it be accordingly solemnized. It is therefore ordered by this Court and authority thereof, that no person whatsoever in this jurisdiction shall join any persons together in marriage, but the magistrate, or such other as the General Court or Court of Assistants shall authorize in such place where no magistrate is near. Nor shall any join themselves in marriage, but before some magistrate or person authorized as aforesaid. Nor shall any magistrate, or other person authorized as aforesaid, join any persons together in marriage, or suffer them to join together in marriage in their presence, before the parties to be married have been published according to law." Mass. Col. Laws (ed. 1660) 52; (ed. 1672) 102. Anc. Chart. 152.

In 1656 and 1658, the "commissioners for ending small causes in the several towns where no magistrate dwells" were "authorized and empowered to solemnize marriage between parties legally published;" "and all other commissions in this case are hereby made void." 4 Mass. Col. Rec. pt. i. 255, 322. Anc. Chart. 152. The provision of the St. of 1646, prohibiting persons to join themselves in marriage, except before a magistrate or other authorized person, continued in force throughout the period of the colony charter.

By the Prov. St. of 1692-3 (4 W. & M.) c. 25, "every justice of the peace within the county where he resides, and every settled minister in any town, shall and are hereby respectively empowered and authorized to solemnize marriages, within their respective towns and counties, betwixt persons that may lawfully enter into such a relation, having the consent of those whose immediate care and government they are under, and being likewise first published" as therein directed; and "every justice and minister shall keep a particular register of all marriages solemnized before any of them, and make a return thereof" quarterly to the clerk of the sessions of the peace of the county, to be by him registered. 1 Prov. Laws (State ed.) 61. Anc. Chart. 242.

By the Prov. St. of 1695-6 (7 W. III.) c. 2, § 4, "for the better preventing of clandestine marriages," it is enacted that "no person other than a justice of the peace, and that within his own county only, or ordained minister, and that only in the town where he is settled in the work of the ministry, shall or may presume to join any persons together in marriage; nor shall any justice or minister join any person in marriage other than such one or both of whom are inhabitants or residents in such county or town respectively;" with more specific provisions as to publication of banns and consent of parents and guardians, and a further provision that any justice, minister or other person offending

against this act shall suffer a penalty, and be "forever after disabled to join persons in marriage," and be also liable to an action by the parent or guardian. 1 Prov. Laws, 209, 210. Anc. Chart. 283.

By the Prov. St. of 1716-17 (3 Geo. I.) c. 16, after reciting in the preamble the principal passage above quoted from the act of 1695-6, it is enacted that "the power granted ministers to join persons together in marriage be hereby enlarged, so as that where there shall be no settled ordained minister in any town or precinct, or where the only settled ordained minister of any town or precinct is himself to be married, it shall and may be lawful in such cases for the next settled ordained minister in another town within the same county to join in marriage the minister, or inhabitants of such town or precinct destitute of such settled ordained minister, if such minister or inhabitants desire it, according to the rules prescribed by the laws of this Province for the consummating marriages;" and penalties are imposed on ministers and clerks neglecting to return or record marriages. 2 Prov. Laws, 60. Anc. Chart. 416.

So by an act of 1773 (13 Geo. III.) the authority of each minister of the Church of England within the Province to join persons in marriage, (which had previously been limited to persons belonging to the town in which the minister himself dwelt,) was not only extended to include persons usually worshipping with him and whose ministerial taxes he had a right by law to receive, although not belonging to the same town; but it was enacted that "where any minister of the Church of England is himself to be married, or where such minister shall be removed by death or otherwise, so that the religious society of Christians in which he presided shall be destitute of a minister, it shall be lawful in such cases for the next minister within the Province of the same denomination to join in marriage the minister, or any of the people constituting such religious society who may lawfully enter into such a relation." Mass. Perpetual Laws (Supplts. to ed. 1759) 632. Anc. Chart. 679.

These statutes plainly signify that by the law of the Province even a minister, authorized to solemnize marriages between other persons, could not marry himself.

The only other statutes of the Province which have come to our notice are one of 1727 (1 Geo. II.) providing for the publication of banns of persons residing in places where there was no town clerk, and one of 1763 (3 Geo. III.) concerning the powers of ministers whose parishes were made out of two or more adjacent towns. 2 Prov. Laws, 464. Mass. Perpetual Laws (Supplts. to ed. 1759) 444. Anc. Chart. 462, 655.

The Province laws on this subject remained in force until after our Revolution; and it was before they had been changed by any statute of the Commonwealth that the marriage took place, the validity of which was brought in question in the leading case of *Milford v. Worcester*, 7 Mass. 48. In that case it appeared that in 1784 a man and a woman went together into a room where a justice of the peace happened to be, and in his presence, and before other witnesses, after producing a cer-



tificate that their intentions of marriage had been published the man declared that he took the woman as his lawful wife, and she declared that she took him as her lawful husband, and each made to the other the vows and promises usual in contracting marriages ; but upon the question whether this proceeding was directed and encouraged by the justice the evidence was conflicting. It was ruled by Mr. Justice (afterwards Chief Justice) Sewall at the trial, and held by the full court in an elaborate judgment delivered by Chief Justice Parsons, that, if the proceeding had not the sanction of the justice as a magistrate, the marriage was void, and neither the woman nor her children took the settlement of the man. The position that the marriage, though not solemnized pursuant to the statutes, was yet a lawful marriage, had between parties competent to contract marriage, and not declared void by any statute, was fully argued and considered ; and the court, while admitting the strength of that position in States the laws of which had prescribed no regulations for the celebration of marriages, was clearly of opinion that the provisions of our statutes, by necessary implication, prohibited persons from solemnizing their own marriages by any form of mutual engagement, or in the presence of any witnesses whatever.

The St. of 1786, c. 3, manifested no intention to change the law in this respect. While it expressly repealed all former laws relating to the solemnization of marriages, it substantially reenacted many of their provisions. It empowered justices of the peace within their counties, and stated and ordained ministers within their towns or parishes, to solemnize marriages ; provided that, when any such minister was himself to be married, it should be lawful for any other such minister within the same county to marry him ; required "all persons desiring to be joined in marriage" to have their intention published, and to "produce to the justice or minister who shall be desired to marry them" a certificate of such publishment ; obliged justices and ministers to keep records and make returns of the marriages solemnized by them ; and made persons illegally solemnizing marriages, or neglecting to make returns, subject to penalties, and to be thereafter disqualified from joining persons in marriage.

It also contained a new provision declaring marriages which had been or should be had and solemnized among Quakers or Friends, in the manner and form used and practised in their societies, to be good and valid in law, and requiring the clerk or keeper of the records of the meeting at which such marriages should be had and solemnized to make returns thereof. St 1786, c. 3, § 7. This section, Chief Justice Parsons tells us, was enacted in consequence of the general opinion of lawyers that such marriages were void before. *Milford v. Worcester*, 7 Mass. 56.

The St. of 1786 (after being amended in some unimportant particulars by the Sts. of 1795, c. 7, 1817, cc. 61, 141, and 1820, c. 55) was repealed by the St. of 1834, c. 177, which contained similar provisions, but allowed resident ministers to solemnize marriages throughout the Commonwealth, and therefore omitted as unnecessary the specific pro-

vision of former statutes as to the marriage of ministers, and also declared — thereby clearly implying that some solemnization beyond the mere contract of the parties was considered essential — that “all marriages, between persons who might lawfully enter into that relation, heretofore solemnized by any justice or minister, be and they hereby are confirmed and made valid in law, although such justice or minister may have exceeded his authority or jurisdiction.”

In the Rev. Sts. c. 75, the provisions of the previous statutes are substantially reënacted, and the following section [§ 24] is added: “No marriage, solemnized before any person professing to be a justice of the peace, or a minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, on account of any want of jurisdiction or authority in such supposed justice or minister, or on account of any omission or informality in the manner of entering the intention of marriage, or in the publication of the banns; provided, that the marriage be in other respects lawful, and be consummated with a full belief, on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.” Rev. Sts. c. 75, § 24.

The object of this section, as declared in the Report of the Commissioners who framed it, was to adopt the principle stated in *Milford v. Worcester*, that a marriage would be lawful, if solemnized before a justice or minister, although without publication of the banns and without the consent of parents or guardians; and to extend that principle so as to prevent marriages from being invalidated on account of some defect, not known or suspected by either party, in the ordination of the minister or the commission of the justice in whose presence the marriage ceremony was performed. That the Commissioners understood the presence of some person, being or believed to be a magistrate or minister, to be necessary to the validity of every marriage of persons other than Quakers in this Commonwealth, clearly appears by their concluding sentence: “The essence of the contract is the assent of the parties; and if this assent is formally and solemnly given in the presence of one who is acting as a justice or minister, and who is honestly believed to be qualified as such, it furnishes all the security against fraud and surprise, which the law was designed to provide for.”

The existing laws upon the subject are mostly contained in the Gen. Sts. c. 106; and the only modification since the Rev. Sts. that is worthy of notice is that by which, where the fact of marriage is required to be proved before any court, evidence of the admission of that fact by the defendant, or of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence, is made competent. Sts. 1840, c. 84; 1841, c. 20. Gen. Sts. c. 106, § 22. Evidence of the kind here mentioned is simply made competent, not controlling when the whole truth appears.

Under all changes in the form of the statutes it has always been assumed in this Commonwealth, and in the State of Maine, which was originally a part thereof, that (except in the single case of Quakers, or



Friends, whose marriages are made valid by a special provision limited to that sect, and, though not solemnized by any magistrate or minister, are witnessed, recorded, and returned by the principal officer of the meeting at which the ceremony is performed) a marriage which is shown not to have been solemnized before any third person, acting or believed by either of the parties to be acting as a magistrate or minister, is not lawful or valid for any purpose. *Medway v. Needham*, 16 Mass. 157, 159. *Commonwealth v. Spooner*, 1 Pick. 235. *Meyers v. Pope*, 110 Mass. 314, 316. *Thompson v. Thompson*, 114 Mass. 566, 567. St. 1879, c. 116. *Brunswick v. Litchfield*, 2 Greenl. 28. *Ligonia v. Buxton*, 2 Greenl. 102. *State v. Hodgskins*, 19 Maine, 155. *State v. Bowe*, 61 Maine, 171, 177. See also *Dunbarton v. Franklin*, 19 N.H. 257, 266; *Northfield v. Plymouth*, 20 Vt. 582, 591; *Goshen v. Stonington*, 4 Conn. 209, 219; *Bashaw v. State*, 1 Yerger, 177; *Dennison v. Dennison*, 35 Md. 361.

It is proper, however, to notice more particularly the Massachusetts cases, on which the defendant's counsel relied.

The case decided by the Superior Court of Judicature of the Province in 1758, and cited in Quincy's Reports, 29, note, appears by the record there referred to, to have been as follows: Flora, a negro woman, was indicted on the Prov. St. of 1696 (8 W. III.,) c. 11, "to prevent the destroying and murdering of bastard children," which had this preamble: "Whereas many lewd women that have been delivered of bastard children, to avoid their shame and escape punishment, do secretly bury or conceal the death of their children, and after, if the child be found dead, the said women do allege that the said child was born dead, whereas it falleth out sometimes (though hardly it is to be proved) that the said child or children were murdered by the said women their lewd mothers, or by their assent or procurement," and which therefore enacted that any woman who should be delivered of a child "which, if it were born alive, should by law be a bastard," and endeavor to conceal the death thereof, whether it were born alive or not, should suffer death as in case of murder, unless she could prove that the child was born dead. 1 Prov. Laws, 255. Anc. Chart. 293. The indictment alleged, in the usual form of an indictment for murder, that the defendant threw her child alive into a vault and immersed it in the water and excrements therein, and thereby drowned and suffocated it. The jury, by special verdict, found "that the said Flora is and from her nativity has been a negro slave; that she was never married according to any of the forms prescribed by the laws of this land, but that the person supposed to be the father of the said child was also a slave, and had kept her company with her master's consent for above a year and a half before that she was delivered alone of the female child mentioned in the indictment, and thrust the same child into the vault and under the excrements and water, and that the same child was taken out dead therefrom, and that, by means of her so immersing the said child and concealing the death thereof, it cannot be known whether the said child was born dead or alive;" and the jury found the defendant

guilty or not guilty, according to the opinion of the court upon the question whether “the said female child, had it been born alive, would have been a bastard, within the meaning and design of” the statute on which the indictment was founded. “After mature advisement upon the said verdict, the court are of opinion that the said Flora is not guilty.” Flora’s case, Rec. 1758, fol. 295. We have no report of the grounds of that opinion; but it may well be that the court thought that so highly penal a statute, changing the ordinary rule as to burden of proof in criminal cases, should be strictly construed, and that the case was not within the evil which it was intended to prevent, as expressed in the preamble.

In *Parton v. Hervey*, 1 Gray, 119, it was decided, 1st, that the age of consent in this Commonwealth, as by the common law of England, was fourteen in males and twelve in females; and 2d, that the Prov. St. of 1695–6 (7 W. III.) c. 2, the Sts. of 1786, c. 3, and 1834, c. 177, and the Rev. Sts. c. 75, §§ 15, 19, prohibiting justices and ministers, under a penalty, from solemnizing marriages of males under twenty-one or of females under eighteen, without the consent of their parents or guardians, did not make void the marriage of a girl thirteen years old, solemnized by a justice or minister without such consent. The decision on the first point finds additional and conclusive support in the Prov. St. of 1694–5 (6 W. & M.), c. 5, § 5, which defined the age of consent to be in “the man fourteen years of age, the woman twelve.” 1 Prov. Laws, 172. Anc. Chart. 278. 2 Dane Ab. 301. The decision on the second point was in exact accordance with the statement of Chief Justice Parsons in *Milford v. Worcester*, referred to in the Commissioners’ Report on the Revised Statutes, as already mentioned, that “when a justice or minister shall solemnize a marriage between parties who may lawfully marry, although without publication of the banns of marriage, and without the consent of the parents or guardians, such marriage would unquestionably be lawful, although the officer would incur the penalty of fifty pounds for a breach of his duty.” 7 Mass. 54, 55. The general statement of Mr. Justice Bigelow in the course of his discussion of this point — that, “in the absence of any provision declaring marriages, not celebrated in the prescribed manner, or between parties of certain ages, absolutely void, it is held that all marriages, regularly made according to the common law, are valid and binding, although had in violation of the specific regulations imposed by statute” — evidently had regard to the effect of specific regulations as to the publication of banns or the consent of parents, and not to the broader question, which was not before him, whether any presence of a third person was necessary. If the learned judge had intended to cast any doubt on the adjudication of that question in *Milford v. Worcester*, he would hardly have referred, as he did, to that case as supporting his statement. 1 Gray, 122.

In *Meyers v. Pope*, 110 Mass. 314, there was evidence that the parties went before a person whom they supposed to be a justice of the peace of the county, with the intent on the part of both to contract marriage



before him; that in his presence and hearing the man said that the woman was his wife; and that they afterwards cohabitated together, believing themselves to have been then and thereby lawfully married. The extent of the decision, as stated by Chief Justice Chapman, was that the provision of the Rev. Sts. c. 75, § 24, and the Gen. Sts. c. 106, § 20, already quoted, (by which the law as declared in *Milford v. Worcester*, has been so far modified as to make a marriage before a justice or minister, believed by either of the parties to be authorized, as valid as if he were in fact authorized to solemnize the marriage,) should by a liberal construction be held to include a case “where the parties go before a magistrate or minister, make a marriage contract in some form in his presence, in the belief that he sanctions and assents to it in his official capacity, and cohabit as husband and wife afterwards, believing that they are legally married, though the magistrate understands the matter differently, and does not intend to act officially in the matter.” 110 Mass. 316.

The presence of a person officiating, or at least believed to be officiating, as a justice or minister being (except in the case of Quakers) clearly required, according to a long course of legislative action and of judicial opinion, to constitute a valid marriage in this Commonwealth, it would be superfluous to examine the English decisions, or the cases cited at the argument showing that a different rule prevails in some other parts of the Union. Whether it is wise and expedient so to change the law of Massachusetts as to allow an act, which so deeply affects the relations and rights of the contracting parties and their offspring, to become binding in law by the mere private contract of the parties, without going before any one as a magistrate or minister, is a matter for legislative, and not for judicial consideration.

In the case before us, it appearing from the undisputed facts that, in the ceremony performed by the defendant and the woman with whom he has since cohabited, no third person participated or was understood or expected to participate in any way, and no civil magistrate or minister of the gospel, nor any person believed to be such, was present, and neither party was a Friend, or Quaker, it was rightly ruled in the Superior Court that no lawful or valid marriage between the parties had taken place.

But it does not follow that the conviction was warranted by the evidence before the jury. *Milford v. Worcester*, 7 Mass. 57. Sedgwick, J., in *Mangue v. Mangue*, 1 Mass. 240, 242. To support an indictment against a man for adultery, it is sufficient to prove sexual connection between him and the wife of another man. *Commonwealth v. Elwells*, 2 Met. 190. To support an indictment for bigamy or polygamy, it is sufficient to prove that the defendant, being at the time lawfully married to one person, has married another. *Commonwealth v. Mash*, 7 Met. 472. *Reynolds v. United States*, 98 U.S. 145. But to support this indictment on the Gen. Sts. c. 165, § 6, it is necessary to prove not only that a man and a woman, “not being married to each other,” “cohabited together,” but that they so cohabited “lewdly and lascivi-

ously," — implying an evil intent, which cannot be inferred from the mere fact (such as was proved at the trial) of cohabitation under an honest, though mistaken, belief that the parties were lawfully married to each other. *Commonwealth v. Hunt*, 4 Cush. 49. If there were evidence that the cohabitation was under such circumstances as to create a common scandal, or tend to corrupt the public morals, the case might be different. See *Commonwealth v. Calef*, 10 Mass. 153; *Grisham v. State*, 2 Yerger, 589; *State v. Moore*, 1 Swan, 136.

*Verdict set aside.*

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## LEGISLATION UNDER THE COMMONWEALTH.

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### CHAPTER 69 OF ACTS OF 1785.

#### AN ACT FOR REGULATING MARRIAGE AND DIVORCE.

SECTION 1. *BE it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That no man or woman shall intermarry within the degrees hereafter named, that is to say:

No man shall marry his mother, grandmother, daughter, son's daughter, daughter's daughter, step-mother, grandfather's wife, son's wife, son's son's wife, daughter's son's wife, wife's mother, wife's grandmother, wife's daughter, wife's son's daughter, wife's daughter's daughter, sister, brother's daughter, sister's daughter, father's sister, mother's sister.

No woman shall marry her father, grandfather, son, son's son, daughter's son, step-father, grandmother's husband, daughter's husband, son's daughter's husband, daughter's daughter's husband, husband's father, husband's grandfather, husband's son, husband's son's son, husband's daughter's son, brother, brother's son, sister's son, father's brother, mother's brother.

And if any man or woman shall intermarry within the degrees aforesaid, every such marriage shall be deemed, taken and adjudged incestuous, and shall be null and void; and the issue of all such incestuous marriages shall be deemed, taken and adjudged illegitimate, and be subjected to all the legal disabilities of such issue.

SECT. 2. *And be it further enacted by the authority aforesaid*, That all marriages, where either of the parties shall have a former wife or husband living at the time of such marriage, shall be absolutely void, and no dower shall be assigned any widow in consequence of such marriage; and the issue thereof shall be deemed, taken and adjudged illegitimate, and be subject to all the legal disabilities of such issue.



## CHAPTER 3 OF ACTS OF 1786.

## AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That every Justice of the Peace, within the county where he resides, and every stated and ordained minister of the gospel in the town, district, parish or plantation, where he resides, shall be and hereby is authorized and empowered to solemnize marriages between persons that may lawfully enter into that relation, when one or both of the persons to be married, belong to, or are residents in the county where such justice resides, or one or both of them are inhabitants of, or residents in the town, district, parish, or plantation where such minister resides.

SECT. 2. *And be it further enacted by the authority aforesaid,* That when any settled and ordained minister of the gospel is himself to be married, it shall be lawful for any other such minister within the same county, to marry the said minister. And also, when any religious society shall be destitute of a settled and ordained minister of the gospel, in case there shall not be such a minister within the town, district or plantation in which such religious society is, it shall be lawful for any such minister, within the same county, to join any person of such town, district or plantation, in marriage: *Provided* such marriage be solemnized in the town, district or plantation where one of the parties to be married shall reside.

SECT. 3. *And be it further enacted by the authority aforesaid,* That all persons desiring to be joined in marriage shall have such their intentions published at three public religious meetings, on different days, at three days' distance exclusively at least from each other, in the town or district, wherein they respectively dwell, or shall have their intentions of marriage posted up by the clerk of such town or district, by the space of fourteen days, in some public place, within the same town or district, fairly written, and shall also produce to the justice or minister, who shall be desired to marry them, a certificate of such publishment, under the hand of the clerk of such town or district respectively; and also, that the intention of marriage hath been entered with him fourteen days, prior to the date of such certificate; and where a male, under twenty one years, or a female under eighteen years of age, is to be married, the consent of the parent, guardian or other person, whose immediate care and government such party is under, if within the Commonwealth, shall be first had to such marriage. And in case the parties or either of them live in a town, district or place where there shall be no clerk, then publishment shall be made in the town or district next adjoining, in manner aforesaid, and a certificate from the clerk of the same town or district, of such publishment, and of the entry of their intentions of marriage as aforesaid, shall be produced as aforesaid, previous to their marriage. *Provided,* That in regard to any plantation in the counties of Cumberland and Lincoln, where the parties, not under the respective ages aforesaid, shall have been inhabitants for the space of twelve months, and shall live twenty miles' distant from such next adjoining town or district, any justice or ordained minister belonging to this Commonwealth, may join them in marriage without such certificate.

SECT. 4. *And be it further enacted by the authority aforesaid,* That if, at any time, the banns of matrimony betwixt any persons shall be forbidden, and the reasons thereof assigned, in writing, by the person so forbidding the same, left with the town or district clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall have been duly inquired into, and determined before two justices of the same county, *quorum unus*: *Provided,* the person forbidding the banns shall, within seven days after filing the reasons as aforesaid, apply unto two justices as aforesaid, and procure their determination thereon; unless the said justices shall certify unto the said clerk, that a further time is necessary for their determination on the reasons filed; in which case the clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the justices shall sooner determine; according to whose determination, the clerk shall govern himself herein; and if the said justices shall determine, that the reasons assigned by the person forbidding the said banns, were not supported by the laws of the Commonwealth, then the person so forbidding shall pay all the cost that may have arisen in consequence of such objection; and the said justices shall make up judgment and issue execution accordingly.

SECT. 5. *And be it further enacted by the authority aforesaid,* That if any person shall deface or pull down any publishment posted up, in writing, as aforesaid, before the expiration of the said fourteen days, he shall forfeit and pay the sum of twenty shillings, to the use of the town; and if unable to pay the said fine, may be set in the stocks for the space of one hour. And if any Justice of the Peace or minister shall, otherwise than is expressly allowed and authorized by this Act, join any persons in marriage, they shall severally forfeit and pay the sum of fifty pounds, two third parts thereof to and for the use of the county wherein the offence may be committed, and the residue to the prosecutor, to be sued for and recovered in the Court of Common Pleas, within the same county, by the treasurer thereof, who is hereby enjoined, upon due information thereof, to prosecute and sue for the said penalty, without delay, or by the parent, guardian or other person under whose immediate care and government either of the parties were at the time of such marriage; and every justice or minister, against whom such recovery shall be had, is hereby forbidden from joining persons in marriage forever after. And in case a person forbid as aforesaid, or any other person whatever, not authorized and empowered to solemnize marriages by this Act, shall join any persons in marriage, and be convicted thereof in the Supreme Judicial Court, upon presentment or indictment, he shall stand one hour in the pillory, and be subjected to pay a fine, at the discretion of the court, to the use of the Commonwealth, not exceeding one hundred pounds, nor less than eighty pounds.

SECT. 6. *And be it further enacted,* That every justice and minister shall make and keep a particular record of all marriages solemnized before them respectively; and in the month of April, yearly, and every year, shall make a return to the clerk of the town, district or plantation in which he lives, certifying the names (both Christian names and surnames) of all the persons who have been by them respectively joined together in marriage within the year then last past, if any such have been by them so joined together.

[And if it shall so happen, that any one or more of the said justices or ministers shall not have joined together in marriage any persons during the course of the year then last past, it shall be the duty of such justice or minister also to certify to the said town-clerk, in writing, under his hand, that he has not joined any persons in marriage within the course of the said year:] *Repealed 1795, ch. 7.*

And if any justice or minister shall neglect to make such return, within the month of April, annually, the clerk of the town, district or plantation, where such delinquent justice or minister lives, shall, without



delay, certify such neglect to the clerk of the Court of General Sessions of the Peace of the same county, who shall lay the same before the said court at their next session; and the person so neglecting shall be cited to appear before the said court, to answer for such neglect; and if no sufficient reason shall be assigned therefor, he shall be considered and adjudged disqualified for joining persons in marriage for a term of time, not exceeding ten years, at the discretion of the justices of the said court. And every town and district clerk shall duly and seasonably record all marriages, so certified to him, as aforesaid:

[And shall also return a list or copy thereof to the clerk of the Court of General Sessions of the Peace of the same county, some time in the month of May, yearly and every year, to be there recorded, upon penalty of forfeiting twenty shillings for each neglect: And it shall be the duty of each clerk of the sessions to prosecute for every such neglect, in the county to which he belongs. And every clerk of the sessions shall record all such returns of marriages at large in a book to be kept for that purpose, and no other, under the same penalty for each neglect.] *Repealed* 1795, ch. 41, § 1.

SECT. 7. *And be it further enacted*, That no person by this Act authorized to marry, shall join in marriage any white person with any negro, indian or mulatto, on penalty of the sum of fifty pounds, two third parts thereof to the use of the county wherein such offence shall be committed, and the residue to the prosecutor, to be recovered by the treasurer of the same county, in manner as aforesaid; and all such marriages shall be absolutely null and void.

SECT. 8. *And be it further enacted by the authority aforesaid*, That any marriages which have been or hereafter may be had and solemnized, among the people called Quakers, or Friends, in the manner and form used and practised in their societies, shall be good and valid in law, anything in this Act to the contrary notwithstanding: And the clerk, or keeper of the records of the meeting wherein such marriage shall be had and solemnized, shall once a year make a certificate, under his hand, of all marriages had and solemnized in the society, or meeting, to which he belongs, and shall deliver the same to the clerk of the Court of General Sessions of the Peace of the county wherein the marriages have been had and solemnized, under the penalty of twenty shillings for each neglect. All fines, not particularly appropriated, shall be to the use of the prosecutor. And all former laws relating to the solemnization of marriages, are hereby repealed.

This Act to be in force from and after the last day of December, one thousand seven hundred and eighty-six, and not sooner. [June 22, 1786.]

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## CHAPTER 7 OF ACTS OF 1795.

AN ACT REPEALING A CERTAIN CLAUSE OF AN ACT, ENTITLED, "AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES."

WHEREAS in and by the Act, entitled, as aforesaid, among other things, the following clause is enacted, viz. "And if it shall so happen, that any one or more of the said justices or ministers shall not have joined together in marriage any person during the course of the year then last past, it shall be the duty of such justice or minister also to certify to the said town-clerk, in writing, under his hand, that he has not joined any persons in marriage within the course of the said year;" and a compliance with the said clause is found inconvenient:

*Be it therefore enacted by the Senate and House of Representatives in General Court Assembled, and by the authority of the same*, That the before recited clause be and it is hereby repealed. [June 15, 1795.]

CHAPTER 41 OF ACTS OF 1795.

FEES FOR MARRIAGES.

To the town-clerk for publishing the banns of matrimony, recording the same, giving a certificate of the publishment, and recording the marriage upon receiving the justice's or minister's certificate thereof, fifty cents, to be paid by the man published, on receiving a certificate of the publishment. And the town-clerk shall not in future be holden to return certificates of marriages to the clerks of the Courts of General Sessions of the Peace, nor clerks last mentioned to record the same. To every minister or Justice of the Peace, who shall lawfully solemnize a marriage, and certify the same, one dollar and twenty-five cents. To the town-clerk for recording births and deaths, eight cents each. For a certificate of a birth or death, ten cents. For a subpoena for one or more witnesses, ten cents.

CHAPTER 69 OF ACTS OF 1795.

AN ACT FOR RECORDING BIRTHS AND DEATHS BY THE CLERKS OF TOWNS AND DISTRICTS.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That it shall be the duty of every town-clerk and every district-clerk, within this Commonwealth, to record all births and deaths which shall happen within his town or district and come to his knowledge, together with the time of such birth or death, and the names of his or her parents, if known, for the fees allowed, by law, to be paid by his town or district.

SECT. 2. *And be it further enacted,* That it shall be the duty of parents to give notice to the clerk of the town or district in which they dwell, of all the births and deaths of their children; and it shall be the duty of every householder to give notice of every birth and death which may happen in his house; and of the eldest person next of kin to give such notice of the death of his kindred; and it shall be the duty of the master or keeper of any alms-house, work-house or prison, and of the master or commander of any ship or vessel, to give notice of every birth and death which may happen in the house or vessel under his care or charge, to the clerk of the town or district in which such event shall happen: And in case any person, whose duty it shall be, by virtue of this Act, to give notice as aforesaid, shall neglect to perform the same for the space of six months after the birth or death shall happen, the person so neglecting shall pay a fine of one dollar, to be recovered, with costs of suit, on complaint before any Justice of the Peace for the same county, to the use of any inhabitant of the same town who shall prosecute for the same; from which judgment there shall be no appeal.

SECT. 3. *And be it further enacted,* That this Act shall be in force on and after the first day of September next; and that an Act passed *Anno Domini* one thousand six hundred and ninety-two, for registering births and deaths, shall be and hereby is repealed, on and after that day. [Feb. 26, 1796.]



## CHAPTER 61 OF ACTS OF 1817.

## AN ACT EXPLANATORY OF AN ACT, ENTITLED, "AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES."

*BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That any marriage which has been, or which shall hereafter be solemnized by any minister or Justice of the Peace, agreeably to the provisions of the Act, entitled, "An Act for the orderly solemnization of Marriages," in any plantation, which at the time of passing said Act was included within the counties of Cumberland or Lincoln, shall be deemed and taken to be legal, to all intents and purposes, as if the said counties, or either of them, had not been divided. And every Justice of the Peace, or minister, who shall hereafter solemnize any such marriage, shall transmit a certificate thereof to the clerk of the Circuit Court of Common Pleas for the county in which said plantation is situated, to be recorded by said clerk, in a book to be by him kept for that purpose. [Jan. 27, 1818.]*

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## CHAPTER 141 OF ACTS OF 1817.

## AN ACT IN EXPLANATION OF AN ACT, ENTITLED, "AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES."

*BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That all marriages (between persons who may or might lawfully enter into that relation) which have been or may hereafter be solemnized by any stated ordained minister of the gospel, in the town, parish, district, or plantation, within or over which such minister, at the time, was, or may be settled, and where one of the parties resided, or shall reside, shall be, and be considered valid in law, notwithstanding such minister, at the time, shall reside, or may have resided without the limits of the town, district, parish or plantation, within or over which he is, or was so settled. And it shall be sufficient that the certificate of any marriage, so solemnized, shall be lodged with the clerk of the town, district or plantation, within or over which such minister is so settled. [Feb. 20, 1818.]*

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## CHAPTER 55 OF ACTS OF 1820.

## AN ACT IN FURTHER ADDITION TO THE ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That every stated ordained minister of the gospel shall be, and hereby is authorized and empowered to solemnize marriages between persons that may lawfully enter into that relation, when one or both of the persons to be married belong to the parish or congregation of such minister, although such person or persons shall reside without the limits of the town, parish, or district in which such minister may be settled; and such marriages may be solemnized either within the town, parish, or district wherein such minister resides, or wherein such person or persons may reside.*

SECT. 2. *Be it further enacted, That whenever any persons, who may lawfully enter into the marriage relation, shall belong to, or be resident in a town or district, in which there shall be no stated ordained minister of the gospel, of the sect or denomination to which such persons, or*

either of them belong, it shall be lawful for any settled, ordained minister, of the sect or denomination to which such persons, or either of them belong, residing in any other town or district within this Commonwealth, to solemnize marriage between such persons, within the town or district where they, or either of them reside; the certificate of which marriage shall be filed with the clerk of the town or district where such marriage shall be solemnized; and the duties of ministers and town clerks, in relation to certificates of marriage, solemnized under the provisions of this Act, and the penalties for the neglect thereof, shall be the same as are provided in the Act, entitled "An Act for the orderly solemnization of marriages." [Feb. 12, 1821.]

## CHAPTER 177 OF ACTS OF 1834.

### AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That every justice of the peace within his jurisdiction, and every minister of the Gospel within the Commonwealth, who has been ordained according to the usage of his denomination, and who is resident therein, be, and they hereby are authorized and empowered to solemnize marriages between persons who may lawfully enter into that relation, when either of the persons to be married belongs to, or is resident within the jurisdiction of said justice or minister; but all such marriages shall be solemnized in the city, town, or district in which the person solemnizing the same may reside, or within the city, town, or district in which one or both of the persons to be married may reside.

SECT. 2. *BE it further enacted,* That all persons desiring to be joined in marriage, shall have their intentions of marriage published at three public religious meetings, on different days, at three days' distance at least from each other exclusively, in the city, town, or district wherein they respectively dwell, or shall have such their intentions of marriage posted up, by the clerk of such city, town or district wherein they respectively dwell, for the space of fourteen days in some public place, within the same city, town, or district, fairly written, and shall also produce to the justice or minister, who may be desired to marry them, a certificate of such publishment under the hand of the clerk of such city, town, or district respectively, and also that the intentions of marriage have been entered with him fourteen days prior to the date of such certificate; and when a male under twenty-one years, or a female under eighteen years of age, is to be married, the consent of the parent, guardian or other person under whose immediate care or government such party is, if within the Commonwealth, shall be first had to such marriage. And in case the parties or either of them, live in a town, district, or other place where there shall be no clerk, then publishment shall be made in manner aforesaid, in a city, town, or district next adjoining, and the certificate from the clerk of such adjoining city, town, or district, of such publishment, and of the entry of their intentions of marriage as aforesaid, previous to their marriage.

SECT. 3. *BE it further enacted,* That if, at any times, the banns of matrimony between any persons shall be forbidden, and the reasons thereof, assigned in writing by the person forbidding the same, be left with the city, town, or district clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall have been duly inquired into and determined before two justices of the same county, quorum unus: *provided,* the person forbidding the banns, shall, within seven days after filing the reasons as aforesaid, apply unto two justices as aforesaid, and procure their determination thereon, unless the said justices shall certify unto the said clerk, that a further time is necessary for their determi-



nation on the reasons filed; in which case the clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the justices shall sooner determine, according to whose determination the clerk shall govern himself herein; and if the said justices shall determine that the reasons assigned by the person forbidding the said banns were not supported by the laws of the Commonwealth, then the person so forbidding shall pay all the cost that may have arisen in consequence of such objection, and the said justices shall make up judgment, and issue execution accordingly.

SECT. 4. *BE it further enacted*, That if any person shall deface or take down any publishment in writing, posted up as aforesaid, before the expiration of the fourteen days, he shall, upon conviction thereof, forfeit and pay a sum not less than two, or more than twenty dollars, to the use of the person who shall prosecute therefor. And if any justice of the peace, or minister, shall, otherwise than is expressly allowed and authorized by this act, join any persons in marriage, they shall, upon conviction thereof, severally forfeit and pay a sum not less than fifty, nor more than one hundred dollars, one moiety thereof to the use of the county wherein the offence may be committed, and the other moiety to the use of the person who shall prosecute therefor; and in case any person whatever, not authorized and empowered to solemnize marriages by this act, shall join any persons in marriage, and be convicted thereof in any court of competent jurisdiction, upon presentment or indictment, he shall be imprisoned in the common jail, or confined to hard labor, for a term not exceeding six months, or pay a fine of not less than fifty, nor more than two hundred dollars, to the use of the Commonwealth, at the discretion of said court.

SECT. 5. *BE it further enacted*, That every justice and minister shall make and keep a particular record of all the marriages solemnized before them respectively; and, in the month of April annually, shall make a return to the clerk of the city, town, or district in which he resides, of a certificate containing the Christian and surnames, and places of residence, of all the persons joined in marriage, by them respectively, within the year then last past, and also the time when, and the name of the city, town, or district, in which such marriages were respectively solemnized; and when neither of the persons married belongs to, or is resident in the city, town, or district, in which such justice or minister resides, then such justice or minister shall also make a like return of a certificate to the clerk of the city, town, or district in which one or both of the persons married may reside, within thirty days from the solemnization of the same. And any justice or minister who shall neglect to make such returns, shall, upon conviction thereof, before any court of competent jurisdiction, in the county in which he resides, forfeit and pay for each neglect a sum of not less than twenty nor more than one hundred dollars, at the discretion of said court, one moiety thereof to the use of said county, and the other moiety to the use of the person who shall prosecute for the same; and every city, town, or district clerk shall duly and reasonably record all marriages so certified to him as aforesaid.

SECT. 6. *BE it further enacted*, That all marriages which have been or may be solemnized among the people called quakers or friends, in the manner and form used and practised in their societies, shall be good and valid in law, anything in this act to the contrary notwithstanding. And the clerk or keeper of the records of the meeting wherein such marriages shall be solemnized, shall, in the month of April, annually, make and deliver to the clerk of the city, town, or district in which such society usually meet and worship, a certificate of all marriages solemnized therein, during the year then last past, as in the fifth section of this act is provided, under the penalty of not less than twenty nor more than one hundred dollars for each neglect, to be recovered in the manner and to the uses as in said fifth section is provided.

SECT. 7. *BE it further enacted*, That all marriages between persons who might lawfully enter into that relation, heretofore solemnized by any justice or minister, be and they hereby are confirmed and made valid in law, although such justice or minister may have exceeded his authority or jurisdiction.

SECT. 8. *BE it further enacted*, That “an act for the orderly solemnization of marriages” (except the seventh section thereof,) passed June twenty-second, in the year of our Lord one thousand seven hundred and eighty-six; also “an act repealing a certain clause of an act for the orderly solemnization of marriages,” passed June fifteenth, in the year of our Lord one thousand seven hundred and ninety-five; also, “an act explanatory of an act for the orderly solemnization of marriages,” passed January twenty-seventh, in the year of our Lord one thousand eight hundred and eighteen; also an act in explanation of an act for the orderly solemnization of marriages, passed February twentieth, in the year of our Lord one thousand eight hundred and eighteen, and also “an act in further addition to the act for the orderly solemnization of marriages,” passed February twelfth, in the year of our Lord one thousand eight hundred and twenty-one, be, and they are hereby repealed: *provided, however*, that all marriages confirmed by, or solemnized in pursuance of the provisions of these acts, be ratified and confirmed.

SECT. 9. *BE it further enacted*, That no minister who has unintentionally violated the laws now in force, for the solemnization of marriages, shall be subjected to any penalty or punished for that cause.

SECT. 10. *BE it further enacted*, That the provisions of this act shall go into operation on the first day of May next. [Approved by the Governor, April 1, 1834.]

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## CHAPTER 15 OF THE REVISED STATUTES OF 1836.

### RECORD OF BIRTHS AND DEATHS. — NOTICE OF BIRTHS AND DEATHS.

SECT. 46. The town clerk shall keep a record of the births and deaths of all persons within his town, and coming to his knowledge; and he shall specify in such record the day of each birth and death, and the names of the parents of such persons, if known.

SECT. 47. Parents shall give notice to the clerk of their town of all the births and deaths of their children; and every householder shall give the like notice of every birth and death happening in his house; and the eldest person next of kin shall give such notice of the death of his kindred; and the keeper of any almshouse, workhouse, house of correction, prison or hospital, and the master or other commanding officer of any ship, shall give the like notice of every birth and death happening among the persons under his charge; and every person neglecting to give such notice, for the space of six months, after the birth or death shall have happened, shall forfeit to the use of the town a sum not exceeding five dollars.

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## CHAPTER 75 OF THE REVISED STATUTES OF 1836.

### FOR REGULATING MARRIAGES.

SECTION 1. No man shall marry his mother, grandmother, daughter, granddaughter, step-mother, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, sister, brother's daughter, sister's daughter, father's sister, or mother's sister.



SECT. 2. No woman shall marry her father, grandfather, son, grandson, step-father, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother, brother's son, sister's son, father's brother, or mother's brother.

SECT. 3. In all the cases, mentioned in the two preceding sections, in which the relationship is founded on a marriage, the prohibition shall continue in full force, notwithstanding the dissolution of such marriage by death, or by a divorce, unless the divorce be for a cause, which shows the marriage to have been originally unlawful or void.

SECT. 4. All marriages, contracted whilst either of the parties has a former wife or husband living, shall be void, unless the former marriage shall have been dissolved for some cause other than the adultery of the person contracting such second marriage.

SECT. 5. No white person shall intermarry with a negro, indian or mulatto; and no insane person or idiot shall be capable of contracting marriage.

SECT. 6. When any persons, resident in this state, shall undertake to contract a marriage, contrary to the preceding provisions of this chapter, and shall, in order to evade those provisions, and with an intention of returning to reside in this state, go into another state or country, and there have their marriage solemnized, and shall afterwards return and reside here, such marriage shall be deemed void in this state.

SECT. 7. All persons, intending to be joined in marriage, shall cause notice of their intention to be entered, fourteen days at least before their marriage, in the office of the clerk of the town in which they may respectively dwell (if within this state); and if there be no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town.

SECT. 8. The intention shall be published by the clerk, with whom the entry is made, either by posting up a written notice thereof, in some public place in the town of which he is the clerk, fourteen days at least before the marriage, or by making a public proclamation thereof, at three public religious meetings in the town, on different days; the said meetings to be not less than three days distant from each other, exclusive of the days of the publication.

SECT. 9. The clerk shall deliver to the parties a certificate, under his hand, specifying the time when notice of the intention of marriage was entered with him, and the time of the publication thereof; which certificate shall be delivered to the magistrate or minister, in whose presence the marriage is to be contracted, before he shall proceed to solemnize the same.

SECT. 10. After the intention of marriage is entered with the clerk, if any person shall forbid the banns, and shall assign his reasons therefor in writing, and leave the same with the clerk, the certificate shall not be issued, until the matter shall have been duly inquired into and determined, in the manner hereinafter mentioned; provided the person forbidding the banns shall apply to two justices of the peace and of the quorum, of the same county, and shall, within seven days after the filing of his reasons, procure their decision thereon, or produce to the clerk their certificate that a further time is necessary for the consideration thereof; in which case, the clerk shall withhold his certificate, until the expiration of such further time, unless the justices shall sooner make known their decision.

SECT. 11. The two justices, so applied to, shall proceed forthwith to give notice thereof to the persons who propose to be married, and after a full hearing of the parties, or of the person objecting to the marriage, if the others do not appear, the justices shall decide on the truth and sufficiency of the reasons assigned for forbidding the banns,

and shall certify their decision thereon to the clerk, with whom the intention of marriage was entered.

SECT. 12. If the said two justices shall certify that the objections to the marriage are true and sufficient, the clerk shall not issue any certificate of the publication of the banns; but if they shall certify that the objections are not proved, or are not sufficient, or if they shall not agree in a determination thereupon, the clerk shall forthwith issue his certificate, in the same manner as if no objection had been made thereto.

SECT. 13. If the said justices shall certify that the objections to the marriage are true and sufficient, the persons, who propose to be married, or either of them, may appeal from such decision to the court of common pleas, or the supreme judicial court, next to be held for the same county, and the determination of the court thereon shall be final in the case; and the clerk of the town shall issue, or withhold, his certificate of the publication of the banns, according to such final determination.

SECT. 14. If the objections, so made to any marriage, shall not be proved, and adjudged to be sufficient, the person making the same shall pay all the costs, that shall have been incurred on account thereof, to be taxed by the justices or the court, as the case may be, and execution therefor shall be issued accordingly.

SECT. 15. When a male, under the age of twenty-one years, or a female, under the age of eighteen years, is to be married, the magistrate or minister shall not proceed to solemnize the marriage, without the consent of the parent or guardian, having the custody of such minor, if there be any in the state competent to act.

SECT. 16. Marriages may be solemnized by any justice of the peace, in the county for which he is appointed, when either of the parties resides in the same county; and they may be solemnized throughout the state by any minister of the gospel, who has been ordained according to the usage of his denomination, and who resides within the state, and continues to preach the gospel and to perform the other functions of his office; but all such marriages shall be solemnized in the town, in which the person solemnizing them may reside, or in which one or both of the persons to be married may reside.

SECT. 17. Every justice and minister shall keep a record of all marriages solemnized before him, and in the month of April, annually, shall make a return, to the clerk of the town in which he resides, of a certificate, containing the christian and surnames, and places of residence, of all the persons who have been by him joined in marriage, within the year then last past, and also the time when, and the name of the town in which, such marriages were respectively solemnized; and when neither of the married persons belongs to or is resident in the town in which the justice or minister resides, then such justice or minister shall, within thirty days after such marriage, also return a like certificate to the clerk of the town in which one or both of the married persons may reside; and all marriages, so certified to the clerk, shall be forthwith recorded by him in a book to be kept for that purpose.

SECT. 18. Every justice of the peace and minister, who shall neglect to make such returns, shall, upon conviction thereof, forfeit for each neglect a sum, not less than twenty, nor more than one hundred dollars; one moiety thereof to the use of the county in which he resides, and the other moiety to the use of the person who shall prosecute therefor.

SECT. 19. If any justice of the peace or minister shall join any persons in marriage, contrary to the provisions of this chapter, he knowing that the marriage is not duly authorized, he shall, upon conviction thereof, forfeit a sum not less than fifty, nor more than one



hundred dollars, one moiety thereof to the use of the county where the offence is committed, and the other moiety to the use of the person who shall prosecute therefor.

SECT. 20. If any person shall undertake to join others in marriage, knowing that he is not lawfully authorized so to do, and shall be thereof convicted, upon indictment in any court of competent jurisdiction, he shall be imprisoned in the common jail, or confined to hard labor, for a term not exceeding six months, or shall pay a fine, not less than fifty, and not more than two hundred dollars.

SECT. 21. If any person shall wilfully deface or take down any written notice of the intention of marriage, posted up as before prescribed, within fourteen days after it is so posted up, he shall, upon conviction thereof, forfeit a sum not less than two, or more than twenty dollars, to the use of the person who shall prosecute therefor.

SECT. 22. The preceding regulations, so far as they relate to the manner of solemnizing marriages, shall not effect [*affect*] marriages among the people called friends or quakers, but such marriages may be solemnized, in the manner heretofore used and practised in their societies.

SECT. 23. The clerk or keeper of the records of the meeting, wherein any marriages among the said friends or quakers shall be solemnized, shall, in the month of April, annually, make and deliver to the clerk of the town in which such society usually meet and worship, a certificate, like that before prescribed to be returned by justices and ministers, of all marriages solemnized in the said meeting, within the year then last past, under the penalty of not less than twenty, nor more than one hundred dollars, for each neglect; which penalty shall be recovered in the manner, and to the uses, provided in the case of a like neglect by a justice or minister.

SECT. 24. No marriage, solemnized before any person professing to be a justice of the peace, or a minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, on account of any want of jurisdiction or authority in such supposed justice or minister, or on account of any omission or informality in the manner of entering the intention of marriage or in the publication of the banns; provided, that the marriage be in other respects lawful, and be consummated with a full belief, on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.

SECT. 25. The record of a marriage, made and kept as before prescribed, by a justice of the peace or minister, or by the clerk of any town, or a copy of any such record duly certified, shall be received, in all courts and places, as presumptive evidence of the fact of such marriage.

[NOTE. — By Chapter 146 it was provided that this revision was to take effect on and after the last day of April, 1836.]

CHAPTER 122 OF THE REVISED STATUTES OF 1836.

FEES FOR MARRIAGES.

SECT. 11. To the town clerk, for publishing the banns of matrimony, recording the same, giving a certificate thereof, and recording the marriage upon receiving the minister's or justice's certificate thereof, fifty cents, to be paid on delivering the certificate of publishing the banns:

To every minister or justice of the peace, who shall lawfully solemnize a marriage, and certify the same, one dollar and twenty-five cents.

TOWN CLERK'S FEES.

SECT. 12. For recording births and deaths, eight cents each:

For a certificate of a birth or death, ten cents:

For copies of town records, and other documents, furnished to any person at his request, if containing less than one page, ten cents, and if containing more, at the rate of twelve cents a page.

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CHAPTER 84 OF ACTS OF 1840.

AN ACT RELATING TO THE EVIDENCE OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

Whenever, on hearing of any application for divorce, the fact of marriage is required or offered to be proved, evidence of admission of said fact by the party against whom the process is instituted, or of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence, from which said fact may be inferred, shall be received as competent evidence for consideration, whether the marriage to be proved was contracted in this Commonwealth or elsewhere.

[Approved by the Governor, March 23, 1840.]

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CHAPTER 20 OF ACTS OF 1841.

AN ACT IN ADDITION TO AN ACT RELATING TO THE EVIDENCE OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

The provisions of an act relating to the evidence of marriage, passed on the twenty-third day of March, in the year one thousand eight hundred and forty, are hereby extended to all cases where it shall become necessary to prove the fact of marriage, in any hearing before any court in this Commonwealth.

[Approved by the Governor, Feb. 16, 1841.]



## CHAPTER 95 OF ACTS OF 1842.

AN ACT RELATING TO THE REGISTRY AND RETURNS OF BIRTHS,  
MARRIAGES, AND DEATHS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. The clerks of the several towns and cities in the Commonwealth shall, annually, in the month of May, transmit to the Secretary of the Commonwealth a certified copy of their record of the births, marriages, and deaths of all persons within their respective towns and cities, which may come to their knowledge; shall state the number of births and marriages, and the number of deaths, with the name, sex, age, (and if an adult male, the occupation,) and the names of the diseases of which all persons have died, or are supposed to have died, together with the cause or causes of the death of all such deceased persons, so far as they may be able to obtain a knowledge of the same from physicans or others; and any clerk who shall neglect to make such return, shall be liable to a penalty of ten dollars, to be recovered for the use of any town or city where such neglect shall be proved to have existed.

SECT. 2. The Secretary of the Commonwealth shall prepare and furnish to the clerks of the several towns and cities in this Commonwealth, blank forms of returns, as hereinbefore specified, and shall accompany the same with such instructions and explanations as may be necessary and useful; and he shall receive said returns, and prepare therefrom such tabular results as will render them of practical utility, and shall make report thereof annually to the legislature, and generally shall do whatever may be required to carry into effect the objects of this act, and of the several provisions of the Revised Statutes not inconsistent with this act.

[Approved by the Governor, March 3, 1842.]

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## CHAPTER 5 OF ACTS OF 1843.

AN ACT RELATING TO MARRIAGES BETWEEN INDIVIDUALS OF CERTAIN  
RACES.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

So much of the fifth section of the seventy-fifth chapter and of the first section of the seventy-sixth chapter of the Revised Statutes, as relates to marriages between white persons and negroes, indians and mulattoes, is hereby repealed.

[Approved by the Governor, Feb. 25, 1843.]

## CHAPTER 159 OF ACTS OF 1844.

AN ACT RELATING TO THE REGISTRY AND RETURNS OF BIRTHS,  
MARRIAGES, AND DEATHS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. The clerks of the several cities and towns in this Commonwealth shall, annually, in the month of June, transmit to the secretary of the Commonwealth a certified copy of their record of births, marriages, and deaths, which have occurred within their respective cities and towns during the year next preceding the first day of said month.

The births shall be numbered and recorded in the order in which they are received by the clerk. The record of births shall state in separate columns the date of the birth, the place of birth, the name of the child, (if it have any,) the sex of the child, name and surname of one or both of the parents, occupation of the father, residence of the parents, and the time when the record was made.

The marriages shall be numbered and recorded in the order in which they are received by the clerk. The record of marriages shall state in separate columns, the date of the marriage, the place of the marriage, the name, residence, and official station of the person by whom married, the names and surnames of the parties, the residence of each, the age of each, the condition of each, (whether single or widowed,) the occupation, names of the parents, and the time when the record was made.

The deaths shall be numbered and recorded in the order in which they are received by the clerk. The record of deaths shall state in separate columns the date of the death, the name and surname of the deceased, the sex, condition, (whether single or married,) age, occupation, place of death, place of birth, names of the parents, disease or causes of death, and the time when the record was made.

SECT. 2. The school committee of each city or town shall, annually, in the month of May, ascertain from actual inquiry or otherwise, all the births which have happened within such city or town, during the year next preceding the first day of said May, together with the facts concerning births required by the first section of this act, and shall make an accurate return thereof to the clerk of such city or town, on or before the last day of said May; and the said school committee, or other person authorized by them to make such returns, shall be entitled to receive from the treasury of such city or town, five cents for each and every birth so returned.

SECT. 3. Every justice, minister, and clerk, or keeper of the records of the meeting wherein any marriages among the Friends or Quakers shall be solemnized, shall make a record of each marriage solemnized before him, together with all the facts relating to marriages required by the first section of this act; and each such justice, minister, clerk, or keeper shall, between the first and tenth days of each month, return a copy of the record for the month next preceding, to the clerk of the city or town in which the marriage was solemnized; and every person as aforesaid, who shall neglect to make the returns required by this section, shall be liable to the penalty provided in the eighteenth section of the seventy-fifth chapter of the Revised Statutes.

SECT. 4. Each sexton or other person, having the charge of any burial ground in this Commonwealth, shall, on or before the tenth day of each month, make returns of all the facts required by the first section of this act, connected with the death of any person whose burial he may have superintended during the month next preceding, to the clerk of



the city or town in which such deceased person resided at the time of his death. And such sexton, or other person, shall be entitled to receive from the treasury of the city or town to which the return is made, five cents for the return of each death made agreeably to the provisions of this act.

SECT. 5. The clerk of each city or town shall be entitled to receive from the treasury of such city or town, eight cents for the record of each birth and death: *provided* such clerk shall comply with this act in all respects.

SECT. 6. It shall be the duty of the clerks of the several cities and towns, to make such distribution of blank forms of returns as shall be designated by the secretary of the Commonwealth.

SECT. 7. The secretary of the Commonwealth shall prepare and furnish to the clerks of the several cities and towns in this Commonwealth, blank books of suitable quality and size, to be used as books of record, according to the provisions of this act, and also blank forms of returns, as herein before specified, and shall accompany the same with such instructions and explanations as may be necessary and useful; and he shall receive said returns, and prepare therefrom such tabular results, as will render them of practical utility, and shall make report thereof annually to the legislature, and generally shall do whatever may be required to carry into effect the provisions of this act.

SECT. 8. Any clerk who shall neglect to comply with the requirements of this act, shall be liable to a penalty of ten dollars, to be recovered for the use of any city or town where such neglect shall be proved to have existed.

SECT. 9. An act entitled "an act relating to the registry of births, marriages, and deaths," passed on the third day of March, in the year one thousand eight hundred and forty-two, is hereby repealed.

SECT. 10. This act shall take effect from and after its passage.

[Approved by the Governor, March 16, 1844.]

## CHAPTER 222 OF ACTS OF 1845.

### AN ACT CONCERNING MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

The validity of any marriage in consequence of the incapacity of either of the parties thereto, to contract the same by reason of insanity or idiocy, shall not be called in question upon the trial of any collateral issue, before any of the courts of this Commonwealth, — but only in a process duly instituted, for the purpose of determining the validity thereof, during the life-time of both the parties thereto.

[Approved by the Governor, March 25, 1845.]

## CHAPTER 202 OF ACTS OF 1849.<sup>1</sup>

### AN ACT RELATING TO THE REGISTRATION OF BIRTHS, MARRIAGES, AND DEATHS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Town and city clerks are hereby authorized and required to obtain, record, and index the information concerning births, mar-

<sup>1</sup> Chapter 197 of Acts of 1846 relates to "Marriage and Divorce" but does not refer to the recording of marriages, nor the issuing of marriage licenses. — W. H. W.

riages, and deaths, now required by law. Towns and cities, containing more than ten thousand inhabitants, may choose a person, other than the town or city clerk, to be town or city registrar, to perform this duty instead of the town or city clerk; and said registrar shall take an oath faithfully to perform the duties of the office.

SECT. 2. The fees of the clerk and registrar, for obtaining, recording, and indexing the information required by this act, shall be as follows: For each birth, twenty cents; for each intention of marriage, including the certificate to the parties, fifty cents; for each marriage solemnized, ten cents; for each death, five cents; and the undertaker shall be allowed ten cents for information concerning each death which he returns to the clerk or registrar; said fees for births, deaths, and marriages solemnized, shall be paid by the town; and for intentions of marriage, by the parties having such intentions; *provided, however*, that the aggregate compensation, allowed to any clerk or registrar, may be limited by any town or city containing over ten thousand inhabitants, but, in no case, so as to prevent the full execution of this act.

SECT. 3. Any undertaker, or other person, having the superintendence of the burial of any deceased person, who shall neglect or refuse to obtain and return the information required by this act, concerning each person deceased, whose burial shall come under his superintendence, shall be liable to a penalty not exceeding twenty dollars for each neglect, and, if an undertaker, to be deprived of his office. And every clerk or registrar, who wilfully neglects or refuses to perform the duties herein prescribed, shall be liable to a penalty of not less than twenty, nor more than one hundred dollars, for each neglect or refusal. All penalties and forfeitures, under this act, may be recovered by any person who shall sue for the same, one-half thereof to the use of said complainant, and the other half to the use of the town or city in which the forfeiture shall have been incurred.

SECT. 4. The returns required to be made on the first day of February, in the year one thousand eight hundred and fifty, shall include the births, deaths, and marriages, from the first day of May, in the year one thousand eight hundred and forty-eight, to said day of return.

SECT. 5. Copies of records, in the several towns and cities, of the births, marriages, and deaths, which occurred during the next preceding year, ending December thirty-first, shall be returned to the Secretary of State, annually, on or before the first day of February. The blank forms of said returns shall be printed on paper of uniform size; and those for each year, when filled out and returned to the office of the Secretary of State, shall be bound together, in one or more volumes, and shall be furnished with an index. Blank books for indexes to the town registrars, [*sic*] shall be prepared by the Secretary of State, and furnished to the several towns and cities at the expense of the Commonwealth.

SECT. 6. All parts of acts inconsistent with the provisions of this act are hereby repealed.

[Approved by the Governor, May 2, 1849.]

## CHAPTER 121 OF ACTS OF 1850.

### AN ACT RELATING TO BANNS OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. All persons intending to be joined in marriage shall cause notice of their intention to be entered before their marriage, in the office of the clerk, registrar, or other officer appointed for such pur-



pose, of the city or town in which they may respectively dwell, (if within the State;) and if there be no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town.

SECT. 2. The clerk shall deliver to the parties a certificate under his hand, specifying the time when notice of the intention of marriage was entered with him, which certificate shall be delivered to the minister or magistrate, in whose presence the marriage is to be contracted, before he shall proceed to solemnize the same.

SECT. 3. Whenever parties living in this Commonwealth shall go out of it for the purpose of having a marriage solemnized between them in another state, and a marriage shall be so solemnized, and they shall return to dwell here, they are hereby required to file a certificate or declaration of their marriage, including the facts concerning marriages now required by law, with the clerk or registrar of the town or city where either of them lived at the time, within seven days after their return, under a penalty of ten dollars, to be recovered in the manner and to the uses specified in the third section of the "act relating to the registration of births, marriages, and deaths," passed on the second day of May, in the year eighteen hundred and forty-nine.

SECT. 4. The fee of the clerk or registrar, for making the record of such marriage, shall be fifty cents, to be paid by the said parties.

SECT. 5. So much of the seventy-fifth chapter of the Revised Statutes as is inconsistent with this act, is hereby repealed; *provided, nevertheless*, that nothing herein contained shall be so construed as to modify or alter the provisions of the twenty-second section of the said seventy-fifth chapter, which relates to marriages among the people called Friends or Quakers, but the same shall remain in full force.

[Approved by the Governor, March 28, 1850.]

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## CHAPTER 335 OF ACTS OF 1853.

### AN ACT IN ADDITION TO AN ACT RELATING TO BANNS OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. No clerk or registrar of any city or town shall issue any certificate of intention of marriage to any male person under the age of twenty-one years, or to any female person under the age of eighteen years, except it be upon the application of the parent, master, or guardian of such person, or with their consent in writing expressed, under a penalty not exceeding one hundred dollars, to be recovered by indictment, to the use of the commonwealth, in any court proper to try the same: *provided*, that if there be no parent, master, or guardian, in the state, competent to act, a certificate may be issued without the application or written consent aforesaid.

SECT. 2. The clerk or registrar of every city or town may require of any person who shall apply for a certificate of intention of marriage, an affidavit, sworn to before some justice of the peace for the county where such application is made, setting forth his or her age, and for the purposes of this act, such affidavit shall be proof of the age of the person to whom such a certificate shall be given.

[Approved by the Governor, May 12, 1853.]

CHAPTER 366 OF ACTS OF 1855.

AN ACT RELATING TO THE REGISTRATION OF BIRTHS, MARRIAGES,  
AND DEATHS, IN THE STATE ALMSHOUSES.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

The superintendents of the State almshouses located at Monson, Tewksbury, and Bridgewater, are hereby authorized and required to make record of all the births and deaths which occur in the institutions under their care, and make returns of the same to the secretary of State, annually, as all town and city clerks are required to do by the act to which this is an act in addition; and the town clerks of Monson, Tewksbury, and Bridgewater are hereby exempted from all duties herein required of the superintendents of the above named institutions.

[Approved by the Governor, May 17, 1855.]

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CHAPTER 34 OF ACTS OF 1857.

AN ACT IN ADDITION TO AN ACT RELATING TO BANNS OF MARRIAGE.

*Be it enacted, etc., as follows:*

If any person, applying to any clerk or registrar of any city or town for a certificate of intention of marriage, shall wilfully practise any deception, by making any false statement in relation to the age or residence of either of the parties intending marriage, or in relation to the parent, master, or guardian of either of the said parties, such person shall be subject to a penalty of not more than two hundred dollars, to be recovered by indictment, to the use of the Commonwealth, in any court competent to try the same.

[Approved March 28, 1857.]

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CHAPTER 195 OF ACTS OF 1860.

AN ACT CONCERNING FRAUDULENT NOTICES OF BIRTHS, MARRIAGES,  
AND DEATHS.

*Be it enacted, etc., as follows:*

Any person who shall wilfully send to the publishers of any newspaper, for the purpose of publication, a fraudulent notice of the birth of a child, or of the marriage of any parties, or of the death of any person, shall, upon conviction thereof, be punished by a fine not exceeding one hundred dollars.

[Approved April 4, 1860.]



## GENERAL STATUTES,

*To take effect June 1, 1860.*

## CHAPTER 21.

## OF THE REGISTRY AND RETURNS OF BIRTHS, MARRIAGES, AND DEATHS.

SECTION 1. The clerk of each city and town shall receive or obtain, and record and index, the following facts concerning the births, marriages, and deaths, therein, separately numbering and recording the same in the order in which he receives them, designating in separate columns:

In the record of births, the date of the birth, the place of birth, the name of the child, (if it have any,) the sex and color of the child, the names and the places of birth of the parents, the occupation of the father, the residence of the parents, and the date of the record;

In the record of marriages, the date of the marriage, the place of marriage, the name, residence, and official station of the person by whom married, the names and the places of birth of the parties, the residence of each, the age and color of each, the condition of each, (whether single or widowed,) the occupation, the names of the parents, and the date of the record;

In the record of deaths, the date of the death, the name of the deceased, the sex, the color, the condition, (whether single, widowed, or married,) the age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of the parents, the disease or cause of death, the place of burial, and the date of the record.

SECT. 2. Parents shall give notice to the clerk of their city or town of the births and deaths of their children; every householder shall give like notice of every birth and death happening in his house; the eldest person next of kin shall give such notice of the death of his kindred; the keeper of a workhouse, house of correction, prison, hospital, or almshouse, except the state almshouses at Tewksbury, Bridgewater, and Monson, and the master or other commanding officer of any ship shall give like notice of every birth and death happening among the persons under his charge. Whoever neglects to give such notice for the space of six months after a birth or death, shall forfeit a sum not exceeding five dollars.

SECT. 3. Any physician having attended a person during his last illness, shall, when requested within fifteen days after the decease of such person, forthwith furnish for registration a certificate of the duration of the last sickness, the disease of which the person died, and the date of his decease, as nearly as he can state the same. If any physician refuses or neglects to make such certificate, he shall forfeit and pay the sum of ten dollars to the use of the town in which he resides.

SECT. 4. Every sexton, undertaker, or other person having charge of a burial-ground, or the superintendent of burials having charge of the obsequies or funeral rites preliminary to the interment of a human body, shall forthwith obtain and return to the clerk of the city or town in which the deceased resided or the death occurred, the facts required by this chapter to be recorded by said officer concerning the deceased, and the person making such return shall receive from his city or town the fee of ten cents therefor.

The clerk, upon recording such facts, shall forthwith give to the person making such return, a certificate that such return has been made, which certificate such person shall deliver to the person having charge of the interment, if other than himself, before the burial when practicable, otherwise within seven days thereafter. When a burial takes place and no certificate is delivered as aforesaid, the sexton, undertaker, or other person having charge of the interment, shall forthwith give notice thereof to the clerk under penalty of twenty dollars.

SECT. 5. The clerk of each city and town shall annually on or before the first day of February, transmit to the secretary of the commonwealth, certified copies of the records of the births, marriages, and deaths, which have occurred therein during the year ending on the last day of the preceding December.

SECT. 6. The record of the town clerk relative to any birth, marriage, or death, shall be prima facie evidence, in legal proceedings, of the facts recorded. The certificate signed by the town clerk for the time being shall be admissible as evidence of any such record.

SECT. 7. The clerk shall receive from his city or town for obtaining, recording, indexing, and returning to the secretary of the commonwealth, the facts in relation to a birth, twenty cents; a marriage, ten cents; a death, twenty cents for each of the first twenty entries, and ten cents for each subsequent entry, as the same shall be certified by the secretary of the Commonwealth; but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to their clerk. He shall forfeit a sum not less than twenty nor more than one hundred dollars for each refusal or neglect to perform any duty required of him by this chapter.

SECT. 8. The superintendents of the state almshouses at Tewksbury, Bridgewater, and Monson, shall obtain, record, and make return of, the facts in relation to the births and deaths which occur in their respective institutions, in like manner as is required of town clerks. The clerks of said towns shall, in relation to the births and deaths of persons in said almshouses, be exempt from the duties otherwise required of them by this chapter.

SECT. 9. The secretary shall at the expense of the Commonwealth prepare and furnish to the clerks of the several cities and towns, and to the superintendents of the state almshouses, blank books of suitable quality and size to be used as books of record under this chapter, blank books for indexes thereto, and blank forms for returns, on paper of uniform size; and shall accompany the same with such instructions and explanations as may be necessary and useful. City and town clerks shall make such distribution of blank forms of returns furnished by the secretary as he shall direct.

SECT. 10. The secretary shall cause the returns received by him for each year to be bound together in one or more volumes with indexes thereto. He shall prepare from the returns such tabular results as will render them of practical utility, make report thereof annually to the legislature, and do all other acts necessary to carry into effect the provisions of this chapter.

SECT. 11. Any city or town containing more than ten thousand inhabitants, may choose a person other than the clerk to be registrar, who shall be sworn, and to whom all the provisions of this chapter concerning clerks shall apply. The returns and notices required to be made and given to clerks shall be made and given to such registrar under like penalties.

SECT. 12. The secretary of this Commonwealth shall prosecute, by an action of tort, in the name of the Commonwealth, for the recovery of any penalty or forfeiture imposed by this [chapter] [act].

SECT. 13. Any city or town may make rules and regulations to enforce the provisions of this chapter, or to secure a more perfect registration of births, marriages, and deaths, therein.



## GENERAL STATUTES OF 1860, CHAPTER 29.

## KEEPING AND CUSTODY OF RECORDS.

SECT. 9. Registers of deeds, registers of courts, and the registers and clerks of courts, cities, and towns, shall keep all records and documents belonging to their offices in their sole custody, and shall in no case, except upon summons in due form of law, or when the temporary removal of records and documents in their custody is necessary or convenient for the transaction of the business of the courts or the performance of the duties of their respective offices, cause or permit any record or document to be removed or taken away.

SECT. 10. Under the direction of the officers having the custody of the county, city, and town records and files, the same shall be open for public inspection and examination, and any person may take copies thereof. And the several clerks and registers shall, on payment of a reasonable fee therefor, compare and certify, in the manner herein mentioned, all transcripts properly and correctly made for any county, city, or town, in pursuance of the provisions of this chapter.

## GENERAL STATUTES OF 1860, CHAPTER 106.

## OF MARRIAGE.

SECTION 1. No man shall marry his mother, grandmother, daughter, granddaughter, step-mother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, or mother's sister.

SECT. 2. No woman shall marry her father, grandfather, son, grandson, step-father, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, or mother's brother.

SECT. 3. In all cases mentioned in the two preceding sections in which the relationship is founded on marriage, the prohibition shall continue notwithstanding the dissolution of such marriage by death or divorce, unless the divorce is for a cause which shows the marriage to have been originally unlawful or void.

SECT. 4. All marriages contracted while either of the parties has a former wife or husband living, except as is provided in chapter one hundred and seven, shall be void.

SECT. 5. No insane person or idiot shall be capable of contracting marriage.

SECT. 6. When persons resident in this State, in order to evade the preceding provisions and with an intention of returning to reside in this state, go into another state or country and there have their marriage solemnized, and afterwards return and reside here, the marriage shall be deemed void in this state.

SECT. 7. Persons intending to be joined in marriage shall before their marriage cause notice thereof to be entered in the office of the clerk or registrar of the city or town in which they respectively dwell, if within the state. If there is no such clerk or registrar in the place of their residence, the entry shall be made in an adjoining city or town.

SECT. 8. The clerk or registrar shall deliver to the parties a certificate under his hand, specifying the time when notice of the intention of marriage was entered with him, together with all facts in relation to the

marriage required by law to be ascertained and recorded, except those respecting the person by whom the marriage is to be solemnized. Such certificate shall be delivered to the minister or magistrate in whose presence the marriage is to be contracted, before he proceeds to solemnize the same.

SECT. 9. If a clerk or registrar issues such certificate to a male under the age of twenty-one years, or a female under the age of eighteen years, having reasonable cause to suppose the person to be under such age, except upon the application or consent in writing of the parent, master, or guardian, of such person, he shall forfeit a sum not exceeding one hundred dollars; but if there is no parent, master, or guardian, in this state competent to act, a certificate may be issued without such application or consent.

SECT. 10. The clerk or registrar may require of any person applying for such certificate, an affidavit sworn to before a justice of the peace for the county where the application is made, setting forth the age of the parties; which affidavit shall be sufficient proof of age to authorize the issuing of the certificate.

SECT. 11. Whoever applying for such certificate wilfully makes a false statement in relation to the age or residence, parent, master, or guardian, of either of the parties intending marriage, shall forfeit a sum not exceeding two hundred dollars.

SECT. 12. When a marriage is solemnized in another state between parties living in this state, and they return to dwell here, they shall within seven days after their return file with the clerk or registrar of the city or town where either of them lived at the time, a certificate or declaration of their marriage, including the facts concerning marriages required by law, and for every neglect they shall forfeit ten dollars.

SECT. 13. No magistrate or minister shall solemnize a marriage, having reasonable cause to suppose either of the parties to be under the age mentioned in section nine, without the consent of the parent or guardian having the custody of the minor, if there is any in the state competent to act.

SECT. 14. Marriages may be solemnized by a justice of the peace in the county for which he is appointed, when either of the parties resides in the same county; and throughout the state by any minister of the gospel ordained according to the usage of his denomination, who resides within the state and continues to perform the functions of his office; but all marriages shall be solemnized in the city or town in which the person solemnizing them resides, or in which one or both of the persons to be married reside.

SECT. 15. Marriages among the people called Friends or Quakers may be solemnized in the manner heretofore used and practised in their societies.

SECT. 16. Every justice of the peace, minister, and clerk, or keeper of the records of the meeting wherein any marriages among the Friends or Quakers are solemnized, shall make a record of each marriage solemnized before him, together with all facts relating to the marriage required by law to be recorded. He shall also between the first and tenth days of each month return a copy of the record for the month next preceding, to the clerk or registrar of the city or town in which the marriage was solemnized, and shall, when neither of the parties to a marriage resides in the city or town in which the marriage is solemnized, return a copy of the record of such marriage to the clerk or registrar of the city or town in which one or both of said parties reside. All marriages so returned shall be recorded by the clerk or registrar.

SECT. 17. Every person neglecting to make the returns required by the preceding section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

SECT. 18. A justice of the peace or minister who joins persons in



marriage contrary to the provisions of this chapter, knowing that the marriage is not duly authorized, shall forfeit not less than fifty nor more than one hundred dollars.

SECT. 19. Whoever undertakes to join persons in marriage knowing that he is not authorized so to do, shall be imprisoned in the jail or confined to hard labor for a term not exceeding six months, or pay a fine of not less than fifty nor more than two hundred dollars.

SECT. 20. No marriage solemnized before a person professing to be a justice of the peace or minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, by want of jurisdiction or authority in such person, or by an omission or informality in the manner of entering the intention of marriage, if the marriage is in other respects lawful, and is consummated with a full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

SECT. 21. The record of a marriage, made and kept as prescribed by law by the person before whom the marriage is solemnized, or by the clerk or registrar of any city or town, or a copy of such record duly certified, shall be received in all courts and places as presumptive evidence of such marriage.

SECT. 22. When the fact of marriage is required or offered to be proved before any court, evidence of the admission of such fact by the party against whom the process is instituted, or of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which the fact may be inferred, shall be competent.

SECT. 23. Marriages solemnized in a foreign country by a consul or diplomatic agent of the United States shall be valid in this State; and a copy of the record of a certificate from such consul or agent shall be presumptive evidence of such marriage.

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## GENERAL STATUTES OF 1860, CHAPTER 157.

### TOWN CLERKS.

SECT. 9. For entering notice of an intention of marriage and issuing the certificate thereof, and for entering the certificate of marriage filed by persons married out of the State, fifty cents, to be paid by the parties:

For a certificate of a birth or death, ten cents:

For copies of town records and other documents furnished to any person at his request, if containing less than one page, ten cents, and if more, at the rate of twelve cents a page.

### MINISTERS, ETC., FOR MARRIAGES.

SECT. 10. For lawfully solemnizing and certifying a marriage by a minister or justice of the peace, one dollar and twenty-five cents.

SECT. 15. The word "page" when used as the measure of computation, shall mean two hundred and twenty-four words.

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## CHAPTER 96 OF ACTS OF 1865.

### AN ACT RELATING TO THE REGISTRY AND RETURN OF BIRTHS.

*Be it enacted, etc., as follows:*

SECTION 1. It shall be the duty of every physician and midwife in the several cities and towns in this Commonwealth, on or before the tenth day of each month, to forward to the clerk of each city and town

a correct list of the births of all children born therein during the month next preceding, at which such physician or midwife was present ; stating therein, as nearly as practicable, the place and date of each birth, the name, sex, and color of the child, the names, places of birth, and residence of the parents, and the occupation of the father.

SECT. 2. For every certificate of a birth, the physician or midwife shall receive twenty-five cents from such city or town ; and any physician or midwife neglecting to forward such list for six months after it is due, shall forfeit a sum not exceeding five dollars, to be recovered as provided in the twelfth section of the twenty-first chapter of the General Statutes.

SECT. 3. This act shall take effect upon its passage.

*Approved March 24, 1865.*

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## CHAPTER 138 OF ACTS OF 1866.

### AN ACT CONCERNING THE REGISTRY AND RETURN OF MARRIAGES, BIRTHS, AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. The clerk of each city and town except in such cities and towns as choose a registrar, under the eleventh section of the twenty-first chapter of the General Statutes, in which cases the provisions of this act shall apply to the registrar, for receiving or obtaining, recording, indexing and returning the facts relating to marriages, births and deaths occurring therein, shall be entitled to receive therefrom the sums following, viz. : for each marriage, fifteen cents ; for each birth, thirty cents ; for each death returned to him by the persons specified in sections two, three and four of chapter twenty-one of the General Statutes, twenty cents for each of the first twenty entries, and ten cents for each subsequent entry ; for each death not so returned, but by him obtained and recorded, twenty cents.

SECT. 2. Chapter ninety-six of the acts of the year eighteen hundred and sixty-five, and so much of section seven of the twenty-first chapter of the General Statutes as is inconsistent herewith, are hereby repealed.

SECT. 3. This act shall take effect upon its passage.

*Approved April 7, 1866.*

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## CHAPTER 58 OF ACTS OF 1867.

### AN ACT RELATING TO THE MARRIAGE OF NON-RESIDENT PARTIES.

*Be it enacted, etc., as follows :*

SECTION 1. Persons living without the Commonwealth and intending to be joined in marriage within the Commonwealth, shall, before their marriage, cause notice of their intention to be entered in the office of the clerk or registrar of the city or town in which they propose to have the marriage solemnized ; and no marriage between such parties shall be solemnized until they shall have delivered to the justice of the peace, or minister, in whose presence the marriage is to be contracted, a certificate from such clerk or registrar, specifying the time when notice of the intention of marriage was entered with him, together with all the facts in relation to the marriage required by law to be ascertained and recorded, except those respecting the person by whom the marriage is to be solemnized.

SECT. 2. Marriages may be solemnized by a justice of the peace in the county for which he is appointed.



SECT. 3. A justice of the peace or minister who joins persons in marriage contrary to the provisions of this act shall forfeit not less than fifty nor more than one hundred dollars.

*Approved March 11, 1867.*

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#### CHAPTER 248 OF ACTS OF 1867.

##### AN ACT IN RELATION TO MARRIAGE CONTRACTS.

*Be it enacted, etc., as follows :*

SECTION 1. No marriage contract heretofore made between parties, both of whom are now living, or which may be hereafter made, shall be invalid as between the parties thereto and their heirs and personal representatives by reason of the failure to record the same as required by section twenty-eight of chapter one hundred and eight of the General Statutes.

SECT. 2. This act shall take effect upon its passage.

*Approved May 18, 1867.*

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#### CHAPTER 145 OF ACTS OF 1873.

##### AN ACT FIXING THE FEES OF CLERKS AND REGISTRARS FOR THE REGISTRY AND RETURN OF BIRTHS.

*Be it enacted, etc., as follows :*

SECTION 1. The clerk or registrar of a city or town shall receive the sum of fifty cents for receiving or obtaining, recording, indexing and returning the facts relating to each birth : but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to their clerk or registrar.

SECT. 2. This act shall take effect upon its passage.

*Approved April 2, 1873.*

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#### CHAPTER 202 OF ACTS OF 1873.

##### AN ACT RELATING TO THE FEES OF SEXTONS AND OTHERS.

*Be it enacted, etc., as follows :*

SECTION 1. Section four of chapter twenty-one of the General Statutes is amended by striking out the word "ten" after the words "fee of," and inserting instead thereof the word "twenty-five."

SECT. 2. This act shall take effect upon its passage.

*Approved April 16, 1873.*

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#### CHAPTER 341 OF ACTS OF 1873.

##### AN ACT CONCERNING FEES OF TOWN CLERKS FOR OBTAINING AND RECORDING THE FACTS RELATING TO DEATHS.

*Be it enacted, etc., as follows :*

Chapter one hundred and thirty-eight of the acts of the year eighteen hundred and sixty-six is amended by striking out the words "twenty cents" at the close of section one, and substituting therefor the words "thirty-five cents."

*Approved June 6, 1873.*

CHAPTER 21 OF ACTS OF 1875.

AN ACT TO AMEND SECTION FIVE OF CHAPTER TWENTY-ONE OF THE GENERAL STATUTES, IN RELATION TO THE REGISTRY AND RETURNS OF BIRTHS, MARRIAGES AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. Section five of chapter twenty-one, of the General Statutes, is hereby amended by striking out the word "February" in the second line of said section and inserting in place thereof the word "March."

SECT. 2. This act shall take effect upon its passage.

*Approved February 19, 1875.*

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CHAPTER 174 OF ACTS OF 1878.

AN ACT TO PROVIDE FOR THE MORE ACCURATE REGISTRATION OF VITAL STATISTICS.

*Be it enacted, etc., as follows :*

SECTION 1. No human body shall be buried, or removed from any city or town, until a proper certificate has been given by the clerk or local registrar of statistics to the undertaker or sexton, or person performing the burial, or removing the body. This certificate shall state that the facts required by chapter twenty-one of the General Statutes have been returned and recorded; and no clerk or local registrar shall give such certificate or burial permit until the certificate of the cause of death has been obtained from the physician, if any, in attendance at the last sickness of the deceased, and placed in the hands of said clerk or local registrar: *provided*, that in those cities and towns where local boards of health have been established, the certificate of the cause of death shall be approved by such board before a permit to bury is given by the registrar or clerk. Upon application, the chairman of the local board of health or any physician employed by any city or town for such purpose, shall sign the certificate of the cause of death to the best of his knowledge and belief, if there has been no physician in attendance. He shall also sign such certificate, upon application, in case of death by dangerous contagious disease, or in any other event when the certificate of the attending physician cannot for good and sufficient reasons be early enough obtained. In case of death by violence, the medical examiner attending shall furnish the requisite medical certificate. Any person violating the provisions of this section shall be punished by a fine not exceeding twenty-five dollars.

SECT. 2. This act shall take effect on the first day of May in the year eighteen hundred and seventy-eight; and all acts and parts of acts inconsistent herewith are hereby repealed.

*Approved April 23, 1878.*

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CHAPTER 7 OF ACTS AND RESOLVES OF 1879.

RESOLVE RELATING TO THE TRANSFER OF CERTAIN RECORD OF MARRIAGES FOR THE COUNTY OF SUFFOLK FROM THE YEAR SEVENTEEN HUNDRED AND SIXTEEN TO THE YEAR SEVENTEEN HUNDRED AND THIRTY-ONE.

*Resolved*, That the clerk of the supreme judicial court for the county of Suffolk transfer to the city registrar of the city of Boston, the volume



containing the record of marriages in Suffolk county from the year seventeen hundred and sixteen to the year seventeen hundred and thirty-one inclusive.

*Approved February 19, 1879.*

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## CHAPTER 116 OF ACTS OF 1879.

### AN ACT IN RELATION TO RETURNS OF MARRIAGES.

*Be it enacted, etc., as follows :*

SECTION 1. Every justice of the peace, minister, and clerk, or keeper of the records of the meeting wherein any marriages among the Friends or Quakers are solemnized, shall make a record of each marriage solemnized before him, together with all facts relating to the marriage required by law to be recorded. He shall also between the first and tenth days of each month return a copy of the record for the month next preceding, to the clerk or registrar of the city or town in which the marriage was solemnized, and shall, when one or both of the parties to a marriage resides in a city or town other than that in which the marriage is solemnized, return a copy of the record of such marriage to the clerk or registrar of the city or town in which either party resides, and to both cities or towns when the parties reside in different places. All marriages so returned shall be recorded by the clerk or registrar.

SECT. 2. Every person neglecting to make the returns required by the preceding section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

SECT. 3. Sections sixteen and seventeen of chapter one hundred and six of the General Statutes are hereby repealed.

*Approved March 13, 1879.*

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## CHAPTER 33 OF ACTS OF 1880.

### AN ACT TO COMPEL A MORE ACCURATE REGISTRATION OF BIRTHS.

*Be it enacted, etc., as follows :*

SECTION 1. It shall be the duty of every physician and midwife in the several cities and towns in this Commonwealth, excepting Boston, to report on or before the fifth day of each month to the clerk of each city and town a correct list of births of all children born therein during the month next preceding at which such physician or midwife was present, stating therein the place, date of each birth, and parents' names.

SECT. 2. Town and city clerks shall give public notice that they are prepared to furnish the necessary blanks to all physicians and midwives applying therefor.

SECT. 3. Any physician or midwife neglecting to report such list for ten days after it is due shall for each offence forfeit a sum not exceeding twenty dollars.

SECT. 4. This act shall take effect upon its passage.

*Approved February 26, 1880.*

CHAPTER 11 OF ACTS OF 1881.

AN ACT CONCERNING MARRIAGES IN THE SOCIETY OF FRIENDS.

*Be it enacted, etc., as follows :*

SECTION 1. Section sixteen of chapter one hundred and six of the General Statutes is hereby amended by inserting after the word "him," in the fourth line, the words "or in the said meeting."

SECT. 2. Section twenty of said chapter is hereby amended by inserting after the word "gospel," in the second line, the words "or in the Society of Friends according to its usages," and by inserting after the word "person," in the fourth line, the words "or Society of Friends."

SECT. 3. This act shall take effect upon its passage.

*Approved February 9, 1881.*

CHAPTER 32 OF THE PUBLIC STATUTES.

[Enacted November 19, 1881, to take effect February 1, 1882.]

RECORDS OF BIRTHS, MARRIAGES AND DEATHS.

SECTION 1. The clerk of each city and town shall receive or obtain and record and index, the following facts concerning the births, marriages and deaths therein, separately numbering and recording the same in the order in which he receives them, designating in separate columns as follows :

In the record of births, the date of birth, the place of birth, the name of the child, (if it has any,) the sex and color of the child, the names and places of birth of the parents, the occupation of the father, the residence of the parents, and the date of the record.

In the record of marriages, the date of the marriage, the place of marriage, the name, residence and official station of the person by whom married, the names and the places of birth of the parties, the residence of each, the age and color of each, the condition of each, (whether single or widowed,) the occupation, the names of the parents, and the date of the record.

In the record of deaths, the date of the death, the name of the deceased, the sex, the color, the condition, (whether single, widowed, or married,) the age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of the parents, the disease or cause of death, the place of burial, and the date of the record.

SECT. 2. Parents shall give notice to the clerk of their city or town of the births and deaths of their children ; every householder shall give like notice of every birth and death happening in his house ; the eldest person next of kin shall give such notice of the death of his kindred ; the keeper of a workhouse, house of correction, prison, hospital, or almshouse, except the State almshouse, and the master or other commanding officer of a ship, shall give like notice of every birth and death happening among the persons under his charge. Whoever neglects to give such notice for the space of six months after a birth or death shall forfeit a sum not exceeding five dollars.

SECT. 3. A physician who has attended a person during his last illness shall, when requested within fifteen days after the decease of such person, forthwith furnish for registration a certificate of the duration of the last sickness, the disease of which the person died, and the date of his decease, as nearly as he can state the same. If a physician refuses



or neglects to make such certificate, he shall forfeit ten dollars to the use of the town in which he resides.

SECT. 4. Every sexton, undertaker, or other person having charge of a burial-ground, and every undertaker or superintendent of burials having charge of the funeral rites preliminary to the interment of a human body, shall forthwith obtain and return to the clerk of the city or town in which the deceased resided, or the death occurred, the facts required by this chapter to be recorded by said officer concerning the deceased, and the person making such return shall receive from his city or town the fee of twenty-five cents therefor.

SECT. 5. No human body shall be buried or removed from any city or town until a proper certificate has been given by the clerk or registrar to the undertaker, sexton or other person performing the burial or removing the body. Such certificate shall state that the facts required by this chapter have been returned and recorded; and no clerk or registrar shall give such certificate or burial permit until the certificate of the cause of death has been obtained from the physician, if any, in attendance at the last sickness of the deceased, and placed in the hands of said clerk or registrar; and in cities and towns where there are boards of health, the certificate of the cause of death shall also be approved by such board before a permit to bury is given by the registrar or clerk. Upon application, the chairman of the board of health, or any physician employed by any city or town for such purpose, shall sign the certificate of the cause of death to the best of his knowledge and belief, if there has been no physician in attendance. He shall also sign such certificate, upon application, in case of death by dangerous contagious disease, or in any other event when the certificate of the attending physician cannot for good and sufficient reasons be early enough obtained. In case of death by violence, the medical examiner attending shall furnish the requisite medical certificate. Any person violating the provisions of this section shall be punished by fine not exceeding twenty-five dollars.

SECT. 6. The boards of health of towns and the mayor and aldermen of cities shall, on or before the first day of July in each year, license a suitable number of undertakers to take charge of the funeral rites preliminary to the interment of a human body.

SECT. 7. Physicians and midwives shall on or before the fifth day of each month report to the clerk of each city and town, except Boston, a correct list of all children born therein during the month next preceding at the birth of which they were present, stating the place and date of each birth, and the parents' names.

SECT. 8. The clerk of each city and town shall give public notice that he is prepared to furnish, to all physicians and midwives applying therefor, blanks for returns under the preceding section.

SECT. 9. Any physician or midwife neglecting to report such list for ten days after it is due shall for each offence forfeit a sum not exceeding twenty dollars.

SECT. 10. The clerk of each city and town shall annually, on or before the first day of March, transmit to the secretary of the commonwealth certified copies of the records of the births, marriages and deaths which have occurred therein during the year ending on the last day of the preceding December.

SECT. 11. The record of the town clerk relative to a birth, marriage or death, shall be prima facie evidence, in legal proceedings, of the facts recorded. A certificate, signed by the town clerk for the time being, shall be admissible as evidence of such record.

SECT. 12. The clerk of each city and town, (except in such cities and towns as choose a registrar, in which cases the provisions of this section shall apply to the registrar,) for receiving or obtaining, recording, indexing, and returning the facts relating to marriages,

births and deaths occurring therein, shall be entitled to receive from the city or town for each marriage, fifteen cents; for each birth, fifty cents; for each death returned to him by the persons specified in sections two, three, and four, twenty cents for each of the first twenty entries, and ten cents for each subsequent entry; for each death not so returned, but by him obtained and recorded, thirty-five cents, as the same shall be certified by the secretary of the commonwealth; but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to their clerk or registrar. He shall forfeit not less than twenty nor more than one hundred dollars for each refusal or neglect to perform any duty required of him by sections one, two, three, four, ten, twelve, fourteen, sixteen, and eighteen.

SECT. 13. The superintendent of the state almshouse shall obtain, record, and make return of the facts in relation to the births and deaths which occur in his institution, in like manner as is required of town clerks. The clerk of a town in which such almshouse is located shall, in relation to the births and deaths of persons in said almshouse, be exempt from the duties otherwise required of him by this chapter.

SECT. 14. The secretary shall at the expense of the commonwealth prepare and furnish to the clerks of the several cities and towns, and to the superintendent of the state almshouse, blank books of suitable quality and size to be used as books of record under this chapter, blank books for indexes thereto, and blank forms for returns, on paper of uniform size; and shall accompany the same with such instructions and explanations as may be necessary and useful. City and town clerks shall make such distribution of blank forms of returns furnished by the secretary as he shall direct.

SECT. 15. The secretary shall cause the returns received by him for each year to be bound together in one or more volumes with indexes thereto. He shall prepare from the returns such tabular results as will render them of practical utility, make report thereof annually to the general court, and do all other acts necessary to carry into effect the provisions of this chapter.

SECT. 16. A city or town containing more than ten thousand inhabitants may choose a person other than the clerk to be registrar, who shall be sworn, and to whom all the provisions of this chapter concerning clerks shall apply. The returns and notices required to be made and given to clerks shall be made and given to such registrar under like penalties.

SECT. 17. The secretary of the Commonwealth shall prosecute, by an action of tort in the name of the Commonwealth, for the recovery of any penalty or forfeiture imposed by sections two, three, twelve, sixteen, and eighteen.

SECT. 18. A city or town may make rules and regulations to enforce the provisions of this chapter, or to secure a more perfect registration of births, marriages, and deaths therein.

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## CHAPTER 37 OF THE PUBLIC STATUTES.

### OF THE PUBLIC RECORDS.

SECT. 5. A city or town may cause to be carefully copied such of its records as relates to grants of land, — and also any records of births and marriages kept by such city or town or by a parish within the same.

SECT. 12. Registers of deeds and the registers and clerks of courts, cities and towns shall keep all records and documents belonging to their respective offices in their sole custody, and shall in no case, except upon summons in due form of law or when the temporary removal of



records and documents in their custody is necessary or convenient for the transaction of the business of the courts or the performance of the duties of their respective offices, cause or permit any record or document to be removed therefrom.

SECT. 13. Under the direction of the officers having the custody of any county, city or town records or files, all such records and files shall be open for public inspection and examination, and any person may take copies thereof. And the several clerks and registers shall, on payment of a reasonable fee therefor, compare and certify all copies properly and correctly made in pursuance of the provisions of this chapter.

## CHAPTER 145 OF THE PUBLIC STATUTES.

### OF MARRIAGE.

#### CERTAIN MARRIAGES PROHIBITED.

SECTION 1. No man shall marry his mother, grandmother, daughter, granddaughter, step-mother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, or mother's sister.

SECT. 2. No woman shall marry her father, grandfather, son, grandson, step-father, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, or mother's brother.

SECT. 3. In all cases in which the relationship mentioned in the two preceding sections is founded on marriage, the prohibition shall continue notwithstanding the dissolution by death or divorce of the marriage on which such relationship is founded, unless the divorce is for a cause which shows such marriage to have been originally unlawful or void.

SECT. 4. All marriages contracted while either of the parties has a former wife or husband living, except as is provided in chapter one hundred and forty-six, shall be void.

SECT. 5. No insane person or idiot shall be capable of contracting marriage.

SECT. 6. No magistrate or minister shall solemnize a marriage, when he has reasonable cause to suppose the male to be under the age of twenty-one years or the female to be under the age of eighteen years, except with the consent of the parent or guardian having the custody of the minor, if there is any such parent or guardian in the Commonwealth competent to act.

SECT. 7. Every marriage solemnized within this Commonwealth, which is prohibited on account of consanguinity or affinity between the parties, or on account of either of them having a former wife or husband living, or when either party was insane or an idiot, shall be void without a decree of divorce or other legal process.

SECT. 8. Every marriage solemnized when either party was under the age of consent shall be similarly void, if the parties separate during such nonage, and do not afterwards cohabit.

SECT. 9. The validity of a marriage shall not be questioned in the trial of a collateral issue on account of the insanity or idiocy of either party, but such question shall only be raised in a process instituted to test such validity in the lifetime of both parties.

SECT. 10. When persons resident in this Commonwealth, in order to evade any of the provisions of the first five sections of this chapter, and with an intention of returning to reside in this Commonwealth, go into another state or country and there have their marriage solemn-

nized, and afterwards return and reside here, the marriage shall be deemed void in this Commonwealth.

SECT. 11. When the validity of a marriage is doubted, either party may file a libel for annulling such marriage, or, when the validity of a marriage is denied or doubted by either party, the other party may file a libel for affirming the same. Such libel shall be filed in the same manner as a libel for divorce, and all the provisions of chapter one hundred and forty-six relative to libels for divorce, and section twenty-four of said chapter, relative to the powers of the court in relation thereto, shall, so far as applicable, apply to libels under this section. Upon proof of the nullity or validity of the marriage, it shall be declared void, or affirmed by a decree of the court, and such decree of nullity may be made notwithstanding the marriage was solemnized out of the Commonwealth, if the libellant had his domicile in the Commonwealth when the marriage was solemnized and also when the libel was filed, and such decree affirming a marriage shall be conclusive upon all persons concerned.

LEGITIMACY, CARE, ETC., OF ISSUE OF VOID MARRIAGES.

SECT. 12. The issue of a marriage declared void on account of consanguinity or affinity between the parties shall be deemed to be illegitimate.

SECT. 13. The issue of a marriage declared void on account of the nonage, insanity or idiocy of either party shall be deemed to be the legitimate issue of the parent who was capable of contracting the marriage.

SECT. 14. When a marriage is declared void on account of a prior marriage of either party, and it appears that the second marriage was contracted in good faith and with the full belief of the parties that the former husband or wife was dead, that fact shall be stated in the decree, and the issue of the second marriage, born or begotten before the commencement of the suit, shall be deemed to be the legitimate issue of the parent capable of contracting the marriage.

SECT. 15. Upon or after a decree of nullity the court shall have similar power to make orders concerning the care, custody and maintenance of the minor children of the parties as upon a decree of divorce.

NOTICE OF INTENTION OF MARRIAGE.

SECT. 16. Persons intending to be joined in marriage in this Commonwealth shall before their marriage cause notice of their intention to be entered in the office of the clerk or registrar of the city or town in which they respectively dwell, or, if they do not dwell within the Commonwealth, in the office of the clerk or registrar of the city or town in which they propose to have the marriage solemnized. If there is no such clerk or registrar in the place of their residence, the entry shall be made in an adjoining city or town.

SECT. 17. The clerk or registrar shall deliver to the parties a certificate under his hand, specifying the time when notice of the intention of marriage was entered with him, together with all facts in relation to the marriage which are required by law to be ascertained and recorded, except those respecting the person by whom the marriage is to be solemnized. Such certificate shall be delivered to the minister or magistrate before whom the marriage is to be contracted, before he proceeds to solemnize the same.

SECT. 18. If a clerk or registrar issues such certificate to a male under the age of twenty-one years, or to a female under the age of eighteen years, when he has reasonable cause to suppose the person to be under such age, except upon the application or consent in writing of the parent, master or guardian of such person, he shall forfeit a



sum not exceeding one hundred dollars; but if there is no parent, master or guardian in this Commonwealth competent to act, a certificate may be issued without such application or consent.

SECT. 19. The clerk or registrar may require of any person applying for such certificate an affidavit setting forth the age of the parties; which affidavit shall be sworn to before a justice of the peace, and shall be sufficient proof of age to authorize the issuing of the certificate.

SECT. 20. Whoever, when applying for such certificate, wilfully makes a false statement in relation to the age, residence, parent, master or guardian of either of the parties intending marriage, shall forfeit a sum not exceeding two hundred dollars.

SECT. 21. When a marriage is solemnized in another state between parties living in this Commonwealth, and they return to dwell here, they shall within seven days after their return file with the clerk or registrar of the city or town where either of them lived at the time a certificate or declaration of their marriage, including the facts concerning marriages required by law; and for every neglect so to do they shall forfeit ten dollars.

#### BY WHOM AND HOW MARRIAGE MAY BE SOLEMNIZED.

SECT. 22. A marriage may be solemnized by a justice of the peace or by a minister of the gospel, ordained according to the usage of his denomination, who resides in the Commonwealth and continues to perform the functions of his office; but every marriage shall be solemnized in the city or town in which the person solemnizing it resides, or in which one or both of the persons to be married reside.

SECT. 23. A marriage among the people called Friends or Quakers may be solemnized in the manner heretofore used and practised in their societies.

SECT. 24. Every justice of the peace, minister and clerk or keeper of the records of a meeting wherein marriages among Friends or Quakers are solemnized shall make a record of each marriage solemnized before him, or in such meeting, and of all facts relating to the marriage which are required by law to be recorded. He shall also, between the first and tenth days of each month, return a copy of all such records for the month next preceding to the clerk or registrar of the city or town in which the marriage was solemnized, and shall, when one or both of the parties to the marriage resided in a city or town other than that in which the marriage was solemnized, return a copy of the record of such marriage to the clerk or registrar of the city or town in which either party resided, and to the clerks or registrars of both cities or towns when the parties resided in different places. All marriages so returned shall be recorded by the clerk or registrar, and every person neglecting to make the returns required by this section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

SECT. 25. A justice of the peace or minister who joins persons in marriage contrary to the provisions of this chapter, knowing that the marriage is not duly authorized, shall forfeit not less than fifty nor more than one hundred dollars.

SECT. 26. Whoever undertakes to join persons in marriage, knowing that he is not authorized so to do, shall be imprisoned in the jail for a term not exceeding six months, or pay a fine of not less than fifty nor more than two hundred dollars.

SECT. 27. No marriage solemnized before a person professing to be a justice of the peace or a minister of the gospel, or solemnized in the society of Friends according to the usages of said society, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected by want of jurisdiction or authority in such person or society, or by an omission or by informality in the manner of enter-

ing the intention of marriage, if the marriage is in other respects lawful, and is consummated with a full belief on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.

SECT. 28. Marriages solemnized in a foreign country by a consul or diplomatic agent of the United States shall be valid in this Commonwealth.

EVIDENCE OF MARRIAGE.

SECT. 29. The record of a marriage, made and kept as prescribed by law by the person before whom the marriage has been solemnized, or by the clerk or registrar of a city or town, or a copy of such record duly certified, shall be received in all courts and places as presumptive evidence of such marriage.

SECT. 30. When a marriage has been solemnized by a consul or diplomatic agent of the United States, a copy of the record or a certificate from such consul or agent shall be presumptive evidence of such marriage.

SECT. 31. When the fact of marriage is required or offered to be proved before a court, evidence of the admission of such fact by the party against whom the process is instituted, or evidence of general repute or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which the fact may be inferred, shall be competent.

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CHAPTER 199 OF THE PUBLIC STATUTES.

TOWN CLERKS.

SECT. 16. The fees of town clerks shall be as follows :

For entering notice of an intention of marriage and issuing the certificate thereof, and for entering the certificate of marriage filed by persons married out of the state, fifty cents, to be paid by the parties.

For a certificate of a birth or death, ten cents.

MINISTERS, ETC., FOR MARRIAGES.

SECT. 17. For lawfully solemnizing and certifying a marriage, a minister or justice of the peace shall be entitled to receive one dollar and twenty-five cents.

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CHAPTER 207 OF THE PUBLIC STATUTES.

FRAUDULENT NOTICES.

SECT. 68. Whoever wilfully sends to the publisher of a newspaper, for the purpose of publication, a false notice of a birth, marriage or death, shall be punished by fine not exceeding one hundred dollars.

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CHAPTER 124 OF ACTS OF 1883.

AN ACT RELATING TO THE REMOVAL AND TRANSPORTATION OF CERTAIN BODIES FOR BURIAL.

*Be it enacted, etc., as follows :*

SECTION 1. Section five of chapter thirty-two of the Public Statutes, relating to the burial or removal of bodies for burial, is amended by inserting in the eleventh line thereof, after the word "bury," the words "or remove."



SECT. 2. No railroad corporation, or other common carrier or person, shall convey or cause to be conveyed, through or from any city or town in this Commonwealth, the remains of any person who has died of small-pox, scarlet fever, diphtheria, or typhoid fever, until such body has been so encased and prepared as to preclude any danger of communicating the disease to others by its transportation; and no local registrar or clerk shall give a permit for the removal of such body until he has received from the board of health of the city, or the selectmen of the town where the death occurred, a certificate, stating the cause of death, and that said body has been prepared in the manner set forth in this section, which certificate shall be delivered to the agent or person who receives the body.

SECT. 3. This act shall take effect upon its passage.

*Approved April 11, 1883.*

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## CHAPTER 158 OF ACTS OF 1883.

### AN ACT IN RELATION TO THE RETURNS OF BIRTHS BY PHYSICIANS AND MIDWIVES.

*Be it enacted, etc., as follows :*

SECTION 1. Section seven of chapter thirty-two of the Public Statutes is amended so as to read as follows: "Sect. 7. Physicians and midwives shall on or before the fifth day of each month report to the clerk of each city or town, except Boston, a correct list of all children born therein during the month next preceding, at whose birth they were present, stating the date and place of each birth, the name of the child (if it has any), the sex and color of the child, the name, place of birth and residence of the parents, and the occupation of the father. The fee of the physician or midwife shall be twenty-five cents for each birth so reported, and shall be paid by the city or town in which the report is made."

SECT. 2. This act shall take effect upon its passage.

*Approved May 3, 1883.*

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## CHAPTER 36 OF ACTS OF 1886.

### AN ACT TO AMEND SECTION ELEVEN OF CHAPTER ONE HUNDRED AND FORTY-FIVE OF THE PUBLIC STATUTES RELATING TO MARRIAGE.

*Be it enacted, etc., as follows :*

SECTION 1. Section eleven of chapter one hundred and forty-five of the Public Statutes is hereby amended, by inserting in the fourteenth line of said section after the word "filed," the following words: — or has resided in this Commonwealth for five years next preceding the filing of said libel, unless it appears that said libellant has removed into this Commonwealth for the purpose of obtaining said decree.

SECT. 2. This act shall take effect upon its passage.

*Approved March 2, 1886.*

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## CHAPTER 202 OF ACTS OF 1887.

### AN ACT IN RELATION TO THE RETURN AND RECORD OF BIRTHS MARRIAGES AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. Section five of chapter thirty-seven of the Public Statutes is hereby amended by inserting the word: — deaths, — after the

word "births" in the fourth line thereof, so that the same shall read: — also any records of births, deaths and marriages kept by such city or town or by a parish within the same.

SECT. 2. Section four of chapter thirty-two of the Public Statutes is hereby amended by adding at the end thereof the words: — all such returns shall be preserved by said clerk or registrar, and filed, arranged and indexed conveniently for examination and reference.

SECT. 3. Section twenty-four of chapter one hundred and forty-five is hereby amended by adding at the end thereof the words: — all such returns shall be preserved by said clerk or register, and filed, arranged and indexed conveniently for examination and reference.

SECT. 4. The provisions of sections two and three of this act shall apply to all returns of marriages and deaths now in the offices of town and city clerks and city registrars.

SECT. 5. Section one of chapter thirty-two of the Public Statutes is hereby amended by inserting after the word "burial" in the twentieth line of said section the words: — if the deceased was a married woman the name of her husband.

SECT. 6. This act shall take effect upon its passage.

*Approved April 20, 1887.*

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## CHAPTER 63 OF ACTS OF 1888.

AN ACT TO AMEND SECTION THREE OF CHAPTER THIRTY-TWO OF THE PUBLIC STATUTES RELATING TO THE FURNISHING, BY PHYSICIANS, OF CERTIFICATES OF DEATH.

*Be it enacted, etc., as follows:*

SECTION 1. Section three of chapter thirty-two of the Public Statutes is hereby amended by striking out after the words "when requested" in the second line thereof, the words "within fifteen days after the decease of such person."

SECT. 2. This act shall take effect upon its passage.

*Approved February 27, 1888.*

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## CHAPTER 306 OF ACTS OF 1888.

AN ACT RELATING TO THE CERTIFICATES AND REGISTRY OF DEATHS, AND THE BURIAL AND REMOVAL OF BODIES OF DECEASED PERSONS.

*Be it enacted etc., as follows:*

SECTION 1. Section three of chapter thirty-two of the Public Statutes, requiring attending physicians to furnish for registration certain facts relating to deceased persons, is amended so as to read as follows: — *Section 3.* A physician who has attended a person during his last illness shall, when requested, forthwith furnish for registration, a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died, the duration of his last sickness, and the date of his decease. If the physician neglect or refuse to make a certificate as aforesaid, he shall be punished by a fine not exceeding fifty dollars.

SECT. 2. Section five of said chapter, prohibiting the burial or removal of a human body until a proper certificate is furnished, is amended so as to read as follows:

*Section 5.* No undertaker, sexton or any other person shall bury in a city or town or remove therefrom the



body of a deceased person until he has received a permit so to do from the board of health or its duly appointed agent, or, if there is no board of health in such city or town, from the city or town clerk. No such permit shall be issued until there has been delivered to such board, or agent or clerk, as the case may be, a satisfactory written statement containing the facts required by this chapter to be returned and recorded, together with the certificate of the attending physician, if any, as required by section three of this chapter, or in lieu thereof a certificate as hereinafter provided. If there is no attending physician, or if the certificate of the attending physician cannot be obtained, for good and sufficient reasons, early enough for the purpose, the chairman of the board of health or any physician employed by a city or town for the purpose shall, upon request of said board, agent or clerk, make such certificate as is required of the attending physician; and in case of death by violence the medical examiner shall, if requested, make the same. When such satisfactory statement and certificate are delivered to the board of health or to its agent, the board or agent shall forthwith countersign and transmit the same to the clerk or registrar for registration. The person to whom the permit is so given shall thereafter furnish for registration any other information as to the deceased or to the manner and cause of the death, as the clerk or registrar may require. Any person violating any of the provisions of this section shall be punished by a fine not exceeding fifty dollars.

*Approved May 4, 1888.*

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#### CHAPTER 208 OF ACTS OF 1889.

AN ACT IN RELATION TO THE RETURNS OF BIRTHS AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. The clerk or registrar of each city and town shall on the first day of each month make a certified copy of the record of all deaths and births recorded in the books of said city or town during the previous month, whenever the deceased person or the parents of the child born, were resident in any other city or town in this Commonwealth at the time of said death or birth; and shall transmit said certified copies to the clerk or registrar of the city or town in which such deceased person or parents were resident at the time of said death or birth, stating in addition the name of the street and number of the house, if any, where such deceased person or parents so resided, whenever the same can be ascertained; and the clerk or registrar so receiving such certified copies shall record the same in the books kept for recording deaths or births. Such certified copies shall be made upon blanks to be furnished for that purpose by the secretary of the Commonwealth.

SECT. 2. This act shall take effect upon its passage.

*Approved April 5, 1889.*

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#### CHAPTER 288 OF ACTS OF 1889.

AN ACT IN RELATION TO THE RETURNS OF BIRTHS BY PHYSICIANS AND MIDWIVES.

*Be it enacted, etc., as follows :*

Section seven of chapter thirty-two of the Public Statutes, as amended by chapter one hundred and fifty-eight of the acts of the year eighteen hundred and eighty-three, is hereby further amended by striking out in

the second and third lines of said section the words "except Boston," so as to read as follows:

*Section 7.* Physicians and midwives shall, on or before the fifth day of each month, report to the clerk of each city or town a correct list of all children born therein during the month next preceding, at whose birth they were present, stating the date and place of each birth, the name of the child (if it has any), the sex and color of the child, the name, place of birth, and residence of the parents, and the occupation of the father. The fee of the physician or midwife shall be twenty-five cents for each birth so reported, and shall be paid by the city or town in which the report is made.

*Approved April 26, 1889.*

## CHAPTER 402 OF ACTS OF 1890.

### AN ACT IN RELATION TO THE RETURN AND RECORD OF DEATHS.

*Be it enacted, etc., as follows:*

**SECTION 1.** The last clause of section one of chapter thirty-two of the Public Statutes, as amended by section five of chapter two hundred and two of the acts of the year eighteen hundred and eighty-seven, is hereby further amended so that said clause shall read as follows: In the record of deaths, the date of the death, the name of the deceased, the sex, the color, the condition (whether single, widowed or married,) the age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of parents, the disease or cause of death, the place of burial, if the deceased was a married woman her maiden name, and the name of her husband, and the maiden name of the mother of any deceased person, and the date of the record.

**SECT. 2.** This act shall take effect upon its passage.

*Approved June 11, 1890.*

## CHAPTER 300 OF ACTS OF 1892.

### AN ACT RELATING TO THE RECORD AND RETURN OF MARRIAGES.

*Be it enacted, etc., as follows:*

Section twenty-four of chapter one hundred and forty-five of the Public Statutes is hereby amended by inserting in the third line of said section, after the word "make," the words: — and keep, — by striking out, in the fifth line, the words "by law," by inserting after the word "recorded," in said fifth line, the words: — by section one of chapter thirty-two of the Public Statutes, — by striking out the word "each," in the sixth line of said section, and inserting in place thereof the word: — the, — by striking out all after the word "month," in said sixth line, to and including the word "solemnized," in the tenth line, and inserting in place thereof the following words: — following each marriage solemnized by him, return each certificate issued under the provisions of sections sixteen and seventeen of this chapter, to the clerk or registrar who issued the same; and if the marriage was solemnized in a city or town other than the place or places in which the parties to the marriage resided, — by striking out, in the eleventh line, the words "of the record of such marriage," and inserting in place thereof the following words: — of the certificate, or of either certificate in case two were issued, — by striking out all after the word "town," in the twelfth line, to and including "places," in the fourteenth line, and inserting in place thereof the following words: — in which the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the place and date of marriage, and shall be attested by the signature



of the person who solemnized the same, with his official station and residence added thereto, — by striking out the word “marriages,” in said fourteenth line, and inserting in place thereof the words: — certificates or copies, — by inserting after the word “registrar,” in the fifteenth line, the words: — receiving the same, — and by inserting after the word “the,” in said fifteenth line, the words: — record and, — so as to read as follows:

*Section 24.* Every justice of the peace, minister and clerk or keeper of the records of a meeting wherein marriages among Friends or Quakers are solemnized shall make and keep a record of each marriage solemnized before him, or in such meeting, and of all facts relating to the marriage which are required to be recorded by section one of chapter thirty-two of the Public Statutes. He shall also, between the first and tenth days of the month following each marriage solemnized by him, return each certificate issued under the provisions of sections sixteen and seventeen of this chapter, to the clerk or registrar who issued the same; and if the marriage was solemnized in a city or town other than the place or places in which the parties to the marriage resided, return a copy of the certificate, or of either certificate in case two were issued, to the clerk or registrar of the city or town in which the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the place and date of marriage, and shall be attested by the signature of the person who solemnized the same, with his official station and residence added thereto. All certificates or copies so returned shall be recorded by the clerk or registrar receiving the same, and every person neglecting to make the record and returns required by this section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

*Approved May 17, 1892.*

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## CHAPTER 305 OF ACTS OF 1892.

### AN ACT CONCERNING RECORDS OF BIRTHS, DEATHS AND MARRIAGES.

*Be it enacted, etc., as follows:*

SECTION 1. Whenever the records of any city or town do not contain the facts relating to a birth, death or marriage which occurred therein, or whenever such facts are not fully or correctly stated on such records, the clerk or registrar of such city or town may receive a deposition, under oath, containing such facts as are desired for record, and shall then file said deposition and record said facts in a book to be kept for that purpose, stating in addition thereto the name and residence of the deponent and the date of such record. The clerk or registrar shall keep such book separate and apart from the official records of his office, and may certify to the facts contained therein; *provided, however*, that such certificate shall state in addition to all the facts so recorded that the certificate is issued in accordance with the provisions of this act.

SECT. 2. A clerk or registrar shall not alter or amend the record of any former clerk or registrar, nor any record made while he is in office, except to correct a clerical error made by himself or some person under his direction. Whenever it is deemed expedient to make a new copy of any earlier records, each page shall be verified and signed by the clerk or registrar, and such record while preserved in proper custody shall have the same force and effect as the original record.

SECT. 3. Any person who shall make a false return in regard to any birth or death shall be liable to a fine not exceeding fifty dollars.

*Approved May 17, 1892*

CHAPTER 314 OF ACTS OF 1892.

AN ACT CONCERNING THE CITY REGISTRAR OF THE CITY OF BOSTON.

*Be it enacted, etc., as follows:*

SECTION 1. The mayor of the city of Boston shall appoint, subject to confirmation by the board of aldermen of said city, a city registrar, who shall have charge of the registry department of said city and shall have all the powers and perform all the duties appertaining to registrars of cities provided for in section sixteen of chapter thirty-two of the Public Statutes; and said city may from time to time assign to said city registrar any other duties. Chapter two hundred and sixty-six of the acts of the year eighteen hundred and eighty-five and chapter four hundred and eighteen of the acts of the year eighteen hundred and ninety, and all other acts relating to departments of the city of Boston and officers in charge thereof, shall apply to said registry department and to said city registrar.

SECT. 2. The said city registrar shall, from his subordinates, appoint two assistant city registrars, who may, in the absence of the city registrar, perform his duties; and the certificates or attestations of either assistant city registrar shall have the same force and effect as that of the city registrar; said city registrar may pay, out of any funds received by him, the fees due to persons making returns under the requirements of law, and shall on or before the twentieth of each month transmit the accounts and vouchers for all funds so received and fees so paid to the city auditor.

SECT. 3. The duties imposed upon the clerks of cities or towns under sections fourteen and fifteen of chapter thirty-seven of the Public Statutes shall in Boston be performed by the city registrar.

SECT. 4. Said city may from time to time, by ordinance, direct the head of any department, including the city clerk, to place in charge of the city registrar any of the books or papers of such department bearing date prior to the year eighteen hundred and seventy-five, and may in like manner direct their return.

SECT. 5. In the city of Boston the penalties or forfeitures established by section seventeen of chapter thirty-two of the Public Statutes, or by acts supplementary thereto, shall be recovered on complaint, in the same manner as penalties for breaches of the ordinances of said city, and all fines paid on such complaints shall enure to said city for such uses as it may direct.

*Approved May 19, 1892.*

CHAPTER 263 OF ACTS OF 1893.

AN ACT RELATING TO CERTIFICATES AND REGISTRATION OF DEATHS AND TO THE BURIAL AND REMOVAL OF HUMAN BODIES.

*Be it enacted, etc., as follows:*

SECTION 1. Section three of chapter thirty-two of the Public Statutes, as amended by section one of chapter three hundred and six of the acts of the year eighteen hundred and eighty-eight, is hereby amended by inserting after the word "decease," in the seventh line the words: and a physician who has attended at a birth of a child dying immediately thereafter, or at the birth of a stillborn child, shall, when requested, forthwith furnish for registration a certificate stating, to the best of his knowledge and belief, the fact that such a child died after birth or was born dead, — also by inserting after the word "aforesaid," in the eighth line, the words: or makes a false statement therein, — so as to read as follows: *Section 3.* A physician who has attended a person during his last illness shall, when requested forthwith, furnish



for registration, a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died, the duration of his last sickness, and the date of his decease; and a physician who has attended at a birth of a child dying immediately thereafter, or at the birth of a stillborn child, shall, when requested, forthwith furnish for registration a certificate stating, to the best of his knowledge and belief, the fact that such a child died after birth or was born dead. If a physician neglects or refuses to make a certificate as aforesaid, or makes a false statement therein, he shall be punished by a fine not exceeding fifty dollars.

SECT. 2. Section five of chapter thirty-two of the Public Statutes, as amended by section two of chapter three hundred and six of the acts of the year eighteen hundred and eighty-eight, is hereby amended by striking out in the second and third lines thereof, the words "the body of a deceased person," and inserting in place thereof the words: a human body,—so as to read as follows: *Section 5.* No undertaker, sexton, or other person shall bury in a city or town or remove therefrom a human body until he has received a permit so to do from the board of health or its duly appointed agent, or, if there is no board of health in such city or town, from the city or town clerk. No such permit shall be issued until there has been delivered to such board, or agent or clerk, as the case may be, a satisfactory written statement containing the facts required by this chapter to be returned and recorded, together with the certificate of the attending physician, if any, as required by section three of this chapter, or in lieu thereof a certificate as hereinafter provided. If there is no attending physician, or if the certificate of the attending physician cannot be obtained, for good and sufficient reasons, early enough for the purpose, the chairman of the board of health or any physician employed by a city or town for the purpose shall, upon request of said board, agent, or clerk, make such certificate as is required of the attending physician; and in case of death by violence the medical examiner shall, if requested, make the same. When such satisfactory statement and certificate are delivered to the board of health or to its agent, the board or agent shall forthwith countersign and transmit the same to the clerk or registrar for registration. The person to whom the permit is so given shall thereafter furnish for registration any other information as to the deceased or to the manner and cause of the death, as the clerk or registrar may require. Any person violating any of the provisions of this section shall be punished by a fine not exceeding fifty dollars.

SECT. 3. This act shall take effect upon its passage.

*Approved April 26, 1893.*

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## CHAPTER 461 OF ACTS OF 1893.

### AN ACT RELATIVE TO SOLEMNIZING MARRIAGES.

*Be it enacted, etc., as follows:*

SECTION 1. Any rabbi of the Israelitish faith may solemnize a marriage under the same rules, restrictions, obligations and penalties as are imposed by law upon ministers of the gospel in this Commonwealth. Such rabbi must be one duly licensed to act by a congregation of said faith established in this Commonwealth.

SECT. 2. The provisions of section twenty-seven of chapter one hundred and forty-five of the Public Statutes shall apply to such a marriage.

SECT. 3. This act shall take effect upon its passage.

*Approved June 9, 1893.*

CHAPTER 206 OF ACTS OF 1894.

AN ACT RELATING TO RETURNS OF BIRTHS, MARRIAGES, AND DEATHS.

*Be it enacted, etc., as follows :*

Section ten of chapter thirty-two of the Public Statutes is hereby amended by inserting in the first line after the word "town" the words "except Boston," and by adding at the end of said section the words, "the city registrar of Boston shall transmit the copies of his record on or before the first day of May annually," so as to read as follows :

"Section 10. The clerk of each city and town, except Boston, shall annually, on or before the first day of March, transmit to the secretary of the Commonwealth certified copies of the records of the births, marriages, and deaths which have occurred therein during the year ending on the last day of the preceding December. The city registrar of Boston shall transmit the copies of his records on or before the first day of May annually."

*Approved April 5, 1894.*

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CHAPTER 401 OF ACTS OF 1894.

AN ACT CONCERNING THE MARRIAGE OF MINORS.

*Be it enacted, etc., as follows :*

SECTION 1. No town or city clerk or registrar shall receive a notice of the intention of marriage of any male under the age of eighteen years, nor of any female under the age of sixteen years, except as hereinafter provided.

SECT. 2. The judge of probate in any county, after due hearing, may make an order allowing the marriage of a minor under the age specified in the preceding section: *provided*, that said minor resides in a city or town within the county wherein said judge holds court; and *provided, also*, that the father of such minor, or in case of his death the mother, has consented to such order, and that in case neither parent is alive and resident in this Commonwealth a legal guardian has been appointed, whose consent has been given to such order. On the receipt of a certified copy of such order by the clerk or registrar of the town or city where such minor resides, he shall receive the notice required by law and issue a certificate as in other cases.

SECT. 3. This act shall take effect upon its passage.

*Approved May 18, 1894.*

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CHAPTER 402 OF ACTS OF 1894.

AN ACT RELATIVE TO RECORDS OF BIRTHS, DEATHS, AND MARRIAGES.

*Be it enacted, etc., as follows :*

SECTION 1. Section two of chapter three hundred and five of the acts of the year eighteen hundred and ninety-two is hereby amended by striking out all of said section to and including the word "direction," in the fifth line, so as to read as follows :

"Section 2. Whenever it is deemed expedient to make a new copy of any earlier records, each page shall be verified and signed by the clerk or registrar, and such record while preserved in proper custody shall have the same force and effect as the original record."



SECT. 2. No town or city clerk or registrar shall alter or add to any record of a birth, death, or marriage already entered in any book or formal list in his charge, except upon such evidence as was required by law for the original entry, or upon a certified copy of the record of any other city or town, or of the record made at the time by any person since deceased, who was required by law to furnish the evidence of birth, death, or marriage, and such correction shall be at his discretion. In no case shall the first entry be erased, but all corrections shall be added.

SECT. 3. This act shall take effect upon its passage.

*Approved May 18, 1894.*

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## CHAPTER 409 OF ACTS OF 1894.

### AN ACT RELATIVE TO MARRIAGES AND THE ISSUING OF CERTIFICATES THEREFOR.

*Be it enacted, etc., as follows:*

SECTION 1. City clerks and registrars may require notices of intention of marriage to be given to them in writing, on blanks to be furnished by them, by one of the parties to such intended marriage, or by his or her parent or legal guardian, and may require the party giving such notice to make oath before them to the truth of all the statements therein whereof he or she could have knowledge. No fee shall be charged for administering such oath.

SECT. 2. Any city clerk or registrar may refuse to issue a certificate to any parties, in case he has reasonable grounds to believe that any of the statements contained in the notice of intention of marriage are incorrect; but he may, in his discretion, accept depositions under oath, made before him, and such depositions shall be taken and deemed to be sufficient proof of the facts therein stated to authorize the issuing of a certificate. A city clerk or registrar may dispense with the statement of any of the facts required by law to be given in notices of intention of marriage, whenever such facts do not relate to or affect the identity or age of the parties, if he is satisfied that the same cannot be obtained with reasonable effort.

SECT. 3. No city clerk or registrar shall be required to receive notices of intention of marriage at any place except his office, nor shall he be required to receive such notices on the Lord's day or public holidays.

SECT. 4. Whenever, in the marriage of a minor, it is necessary to give notice in two towns or cities, the town or city clerk or registrar who first takes the consent of the parent or guardian shall take it in duplicate, retaining one copy and delivering the other duly attested by him to the party obtaining the certificate, to be given to the clerk or registrar issuing the second certificate; and no fee shall be charged for such consent or copy.

SECT. 5. Any clergyman or rabbi duly authorized to solemnize a marriage in this Commonwealth may perform the ceremony anywhere within the same.

SECT. 6. No person shall give the notice of intention of marriage required by law without the consent of both the parties to such intended marriage, and any person giving such notice without such consent shall be liable in an action of tort to the person whose name was so used without such consent for all damages thereby sustained by such person.

SECT. 7. The superior court, upon petition of either of the parties alleged to intend marriage in a notice of intention of marriage, given

without the consent of both parties therein alleged to intend marriage, and not followed by a marriage between said parties, may, upon such notice as said court may order and after a hearing upon such petition, adjudge that such notice of intention of marriage be cancelled and expunged from the records of the city or town in which the same was recorded.

SECT. 8. Whoever violates any of the provisions of this act shall, upon conviction thereof within one year after such violation, be punished by a fine not exceeding five hundred dollars or by imprisonment in jail or in the house of correction for not more than one year, or both.

*Approved May 19, 1894.*

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## CHAPTER 427 OF THE ACTS OF 1895.

AN ACT RELATIVE TO MARRIAGE AND THE LEGITIMACY OF CHILDREN.

*Be it enacted, etc., as follows:*

Where a marriage contract has been entered into with due legal ceremony and the parties thereafter live together as husband and wife; and where at the time of such marriage ceremony a former husband or wife of one of the parties was living, and the former marriage with such person was still in force; and where such subsequent marriage contract was entered into by at least one of the parties in good faith, in the full belief that the former husband or wife was dead, or that such former marriage had been annulled by divorce; or without knowledge on the part of one of them of such former marriage; and where the impediment to such subsequent marriage existing by reason of the former marriage is removed by the death of the other party to the former marriage, or by a proper decree of divorce, and the parties to such subsequent marriage then continue living together as husband and wife in good faith, on the part of at least one of them, they shall be taken and deemed to have been legally married from and after the removal of such impediment, and the issue of such subsequent marriage shall be deemed to be the legitimate issue of both parents.

*Approved May 29, 1895.*

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## CHAPTER 499 OF THE ACTS OF 1896.

AN ACT RELATIVE TO MARRIAGE AND THE LEGITIMACY OF CHILDREN.

*Be it enacted, etc., as follows:*

The provisions of chapter four hundred and twenty-seven of the acts of the year eighteen hundred and ninety-five shall apply to cases in which the impediment to marriage therein referred to was removed prior to the date when said act took effect, as well as to cases in which such impediment was removed subsequent to such date: *provided*, that no marriage otherwise valid shall hereby be rendered invalid.

*Approved June 5, 1896.*



## CHAPTER 306 OF THE ACTS OF 1896.

## AN ACT RELATIVE TO MARRIAGES.

*Be it enacted, etc., as follows :*

SECTION 1. Any person duly authorized to solemnize marriages in this Commonwealth who shall join in marriage persons who have not complied with the statutes in regard to procuring certificates of notice of intention of marriage shall be punished by a fine not exceeding five hundred dollars.

SECT. 2. Whoever, not being duly authorized by the statutes of this Commonwealth, undertakes to join persons in marriage in this Commonwealth shall be punished by a fine not exceeding five hundred dollars or by imprisonment in jail or in the house of correction not exceeding one year, or by both such fine and imprisonment.

SECT. 3. Sections twenty-five and twenty-six of chapter one hundred and forty-five of the Public Statutes are hereby repealed.

SECT. 4. No person shall solemnize a marriage in this Commonwealth unless he is able to read and write the English language, and no rabbi of the Israelitish faith shall solemnize marriage until he has filed with the clerk or registrar of the town or city where he resides a certificate of the establishment of the synagogue of which he is rabbi, and of the date of his appointment thereto, and of the term of his engagement.

*Approved April 22, 1896.*

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1888 — An act to amend section three of chapter thirty-two of the Pub- lic Statutes relating to the furnishing, by physicians, of cer- tificates of Death. Chap. 63 .....	65
1888 — An act relating to the certificates and registry of Deaths, and the Burial and Removal of bodies of deceased persons. Chap. 306.....	65

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1889 — An act in relation to the returns of Births and Deaths. Chap. 208 .....	66
1889 — An act in relation to the returns of Births, by physicians and midwives. Chap. 288.....	66
1890 — An act in relation to the return and record of Deaths. Chap. 402.	67
1892 — An act relating to the record and return of Marriages. Chap. 300 .....	67
1892 — An act concerning records of Births, Deaths, and Marriages. Chap. 305.....	68
1892 — An act concerning the City Registrar of the City of Boston. Chap. 314.....	69
1893 — An act relating to certificates and registration of Deaths, and to the Burial and Removal of human bodies. Chap. 263.....	69
1893 — An act relative to solemnizing Marriages. Chap. 461.....	70
1894 — An act relating to return of Births, Marriages, and Deaths. Chap. 206.....	71
1894 — An act concerning the Marriage of Minors. Chap. 401.....	71
1894 — An act relative to records of Births, Deaths, and Marriages. Chap. 402.....	71
1894 — An act relative to Marriages, and the issuing of certificates therefor. Chap. 409.....	72
1895 — An act relative to Marriage and the Legitimacy of children. Chap. 427 .....	73
1896 — An act relative to Marriage and the Legitimacy of Children. Chap. 499.....	73
1896 — An act relative to Marriages. Chap. 306.....	74











It seems that the Legislature of Massachusetts had made provision for this point. In the Revised Statutes of 1836, chapter 4, section 13, it was provided that

“If, at any election a greater number of candidates than the number to be elected shall severally receive a majority of the whole number of ballots, a number equal to the number to be elected, of such as have the greatest excess over such majority, shall be deemed and declared to be elected; but if the whole number to be elected cannot thus be completed, by reason of any two or more of such candidates having received an equal number of ballots, the candidates having such equal number shall be deemed not to be elected.”

This was during the period when an absolute majority was necessary to a choice; but in 1855 the plurality law was established by Amendment No. 14. The statute was then altered (see Gen. Stat., chap. 7, § 14, and Pub. Stat., chap. 7, § 25), providing that in all elections of civil officers by the people, “the person or persons having the highest number of votes shall be deemed and declared elected, but no persons receiving the same number of votes shall be deemed to be elected, if thereby a greater number would be elected than required by law.”

This, of course, did away with the old trouble of having too many candidates receive a majority vote, as that feature was not essential. It is confined, however, to popular elections, and the case still arises in representative bodies, city councils, societies, and others where the majority rule remains.

I trust, therefore, this little explanation will not be deemed superfluous.

W. H. WHITMORE.

BOSTON, March 17, 1892.



# LIST OF CITY CLERKS, 1896.

CITIES.	INCORPORATED.	CLERKS.
Boston . . . . .	1822	{ John Mitchel Galvin. William H. Whitmore (Registrar).
Salem . . . . .	1836	J. Clifford Entwisle.
Lowell . . . . .	1836	Girard P. Dadman.
Cambridge . . . . .	1846	Edward J. Brandon.
New Bedford . . . . .	1847	Daniel B. Leonard.
Worcester . . . . .	1848	Enoch H. Towne.
Lynn . . . . .	1850	Charles E. Parsons.
Newburyport . . . . .	1851	George H. Stevens.
Springfield . . . . .	1852	E. A. Newell.
Lawrence . . . . .	1853	William T. Kimball.
Fall River . . . . .	1854	George A. Ballard.
Chelsea . . . . .	1857	George B. Gurney.
Taunton . . . . .	1864	Edwin A. Tetlow.
Haverhill . . . . .	1869	William W. Roberts.
Somerville . . . . .	1871	George I. Vincent.
Fitchburg . . . . .	1872	Walter A. Davis.
Holyoke . . . . .	1873	Edward A. Kane.
Gloucester . . . . .	1873	John J. Somes.
Newton . . . . .	1873	Isaac F. Kingsbury.
Malden . . . . .	1881	Leverett D. Holden.
Brockton . . . . .	1881	DeWitt C. Packard.
Northampton . . . . .	1883	Egbert I. Clapp.
Waltham . . . . .	1884	Luman N. Hall.
Quincy . . . . .	1888	Harrison A. Keith.
Woburn . . . . .	1888	John H. Finn.
Pittsfield . . . . .	1889	Edward C. Hill.
Chicopee . . . . .	1890	John D. White.
Marlborough . . . . .	1890	Peter B. Murphy.
Medford . . . . .	1892	Allston P. Joyce.
Everett . . . . .	1892	Joseph H. Cannell.
Beverly . . . . .	1894	Luther S. Herrick.
North Adams . . . . .	1895	Charles S. Brooker.

ANNUAL REPORT  
OF THE  
REGISTRY DEPARTMENT  
OF THE  
CITY OF BOSTON,

FOR THE  
YEAR 1896.

[The first report of this department was for the year 1849. No report was issued for the years 1860 and 1861. The title-page of the report for 1882 is wrongly printed as Document 80 of 1882, instead of 1883.]



BOSTON:  
MUNICIPAL PRINTING OFFICE.  
1897.



## A MYSTERY OF THE BALLOT.

(From the *Nation* for April 14, 1892.)

In looking over the pages of the *Historical Magazine* I noticed an article copied from the *Boston Advertiser* for some date about A.D. 1860, calling attention to a matter which has often puzzled those who have counted ballots. It is this: when several persons ballot honestly to choose several persons on one ballot, how is it that more than the necessary number receive a majority of ballots? For example: if five men each vote for three candidates, requiring thus three votes to elect, why is it that more than three of them get three votes? In dealing with larger figures, the number of successful candidates may be so many as to almost double the list. I have known some such instances, and have often heard the statement that the result was impossible and showed evident fraud. After studying the example given in the article quoted, I believe that I discern the principle, a very simple one, but I have never happened to see it stated. I will therefore do so, believing that many persons share my ignorance and will be glad to see an explanation.

The rule seems to be this: multiply the number of officers to be chosen by the number of votes, and divide the result by the number required for an election; the quotient will be the number of persons who can be elected, and the remainder will represent unnecessary or cumulative votes, which may be discarded.

Thus, if five voters each vote for three candidates, a total of fifteen votes is cast; which, divided by three, the number necessary for a choice, gives five candidates receiving a majority vote.

Example:

A	votes for candidates	1, 2, 3.
B	" " "	1, 2, 3.
C	" " "	1, 4, 5.
D	" " "	2, 4, 5.
E	" " "	3, 4, 5.

The individual ballot might be varied considerably, always resulting, however, in a majority vote for five candidates. In fact, as the majority is always a little more than one-half the number of voters, the quotient in the rule must always be at least one less than double the number of candidates; but the greater the number of voters and candidates, the less the discrepancy will be. In fact, the true answer to the problem seems to be this: the number of candidates receiving a majority may always amount to twice the number voted for on one ballot, *less one* invariably, and also less a few more, according to the results of the rule. But I think it will surprise most persons to find that if 100 persons ballot for 30 candidates, 58 could receive a majority vote, or 51 votes apiece; though a little explanation makes it self-evident.

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BOSTON:  
MUNICIPAL PRINTING OFFICE.  
1897.





HON. JOSIAH QUINCY,

SIR: In compliance with the ordinance, I beg leave to report that, according to our books, there were recorded for the year 1896,

7,043 intentions of marriage.

921 marriages of citizens married elsewhere in the States  
including 128 marriages of citizens married out of  
the State.

688 still-born children.

	1893.	1894.	1895.	1896.
Births . . .	14,602	15,401	15,613	16,484
Intentions . .	6,564	6,251	6,799	7,043
Marriages . . .	5,755	5,464	5,932	6,318
Deaths . . .	11,713	11,531	11,331	11,650

The Legislature of 1897 passed several acts relating to the duties of town and city clerks and registrars, a part of which will be of benefit to the citizens of Boston. Chapter 439 in regard to the preservation of all public records, an act drafted by Hon. Andrew J. Bailey, will be found to be a concise and well-considered statute, affording protection to all books and papers which are worth preservation. It is a great improvement upon the former statutes and upon the various crude bills which have been offered from time to time.



Chapter 424 is an act calculated to prevent the alteration of notices of intention of marriage, after they have been given to the applicant.

In too many cases the groom, in his anxiety to get the license, will fill in particulars concerning the bride, from recollection or by guess. Then when the error is detected, he will alter the paper even to the extent of changing names or ages. The clause in regard to adopted children will ensure uniformity in the practice of clerks throughout the Commonwealth.

The designation of a clergyman solemnizing a marriage is hereafter to be one of three terms, viz., "minister of the gospel," "clergyman" or "priest," which will do away with the obscurity caused by the old term of "official position."

Chapter 444 represents the final decision of the Legislature upon the scheme for an alleged "codification" of the numerous statutes concerning the record of births, deaths and marriages. It is sufficient to say that it is verbose, and in many respects contradictory to laws passed at the same session. However, it is to be expected that the revision and codification of the Public Statutes, now in charge of competent commissioners, will afford relief in the future. The act goes into effect on Jan. 1, 1898.

I feel constrained to point out that certain provisions of law, which may be desirable in towns, are very burdensome and almost impracticable in Boston. The genealogical furor now prevalent and probably soon to cease, is perhaps, responsible for the requirement for the full maiden name of the mother of any person dying in this Commonwealth. It does not seem that any public end is gained by this information, certainly none to justify the cost of obtaining and recording it. The public will not suffer if the record does not contain the name of some European peasant who may have died a half-century ago, ignorant perhaps of even the existence of Massachusetts. Moreover, in several countries, family names, in the English sense, are not used. But the law requiring such data to be recorded obliges us to have our books prepared accordingly, though it will be impossible to

fill them. So again the requirement of a record in regard to a person deceased, as to whether divorced or not, is one which cannot be complied with in cities. It is matter of regret that the energy which has been expended on such details was not turned to the improvement of the law in regard to obtaining important facts in regard to deaths. At present our records are furnished by the undertakers who must hasten their inquiries in order to get a permit for the funeral. No attempt is ever made to test or correct these reports unless parties interested come to the office. In this respect the death records are inferior in accuracy to those of births and marriages.

The ordinary work of the office has been without special feature, but I think the public interest therein continues to increase. I am grateful for the cheerful assistance given us by physicians in the record of births, and by clergymen in the matter of marriages. Both classes seem to feel that they are aiding us in an important public duty, and that the laws in force are not too exacting.

#### ANCIENT RECORDS.

During the year 1896 good progress was made in printing documents. Volumes 26 and 27 of the Record Commissioners' Reports were finished and issued. We have now in press two volumes, nearly completed, one being Miscellaneous Papers, including Lists of the Early Freemen of the Colony, not easily accessible to the public, and detailed statements of losses incurred in the great fire in Boston in 1760. These last give a lively idea of the household property of our ancestors, covering, as they do, returns from all classes of people. The other volume is the record of Marriages in Boston, collated with the Banns, from 1700 to 1752. A second volume will complete these lists to 1800.

The second volume of the Mayors' Inaugural Addresses was completed and distributed, and work will be continued on a third volume. Copies of three of the earlier Reports of the Record Commissioners have been printed, and the plates of the whole series are now replaced.



The great antiquarian surprise of the year was the discovery, at the Boston Athenæum, of William Aspinwall's Notarial Record-book, from 1644 to 1652, and of a volume of the records of the Court of Sessions for Suffolk from Oct. 31, 1671 to April 1, 1680. By vote of the Board of Aldermen the latter document is to be printed by the City Registrar, and Aspinwall's manuscript is now in the printer's hands.

The financial statement of this branch of the department is as follows:—

Balance Feb. 1, 1896	.	.	.	.	.	\$3,115 73
Appropriation 1896	.	.	.	.	.	3,000 00
						<hr/> 6,115 73
Printing, etc., 1896	.	.	.	.	.	3,028 87
						<hr/> Balance Feb. 1, 1897
	.	.	.	.	.	<u>\$3,086 86</u>

#### RECORD COMMISSIONERS' ITEM.

150 copies 3d report	.	.	.	.	.	\$54 68
200 " 4th "	.	.	.	.	.	76 65
150 " 6th "	.	.	.	.	.	50 13
1,700 " 26th " (balance)	.	.	.	.	.	470 69
1,700 " 27th " "	.	.	.	.	.	806 61
Resetting pages and plates, 12th and 18th reports.	.	.	.	.	.	735 10
Colonial Laws, resetting and plates	.	.	.	.	.	98 12
Mayors' Inaugurals, Vol. 2, 600 copies balance,						736 89
						<hr/> \$3,028 87

Respectfully submitted,

WILLIAM H. WHITMORE,

*City Registrar.*

FINANCIAL STATEMENT.

Cash on hand Feb. 1, 1896 (City Doc. No. 48),	\$223 25
Appropriation for 1896 . . . . .	30,000 00

\$30,223 25

RECEIPTS.

Received for Marriage Licenses from Feb. 1,  
1896, to Jan. 31, 1897, inclusive:

Nos. 566 to 7,043, of 1896 = 6,478 certificates

Nos. 1 @ 521, of 1896 = 521 "

6,999 " @ 50c. = 3,499 50

\$33,722 75

EXPENDITURES.

Salaries, regular employees . . . . .	\$20,397 98
Collecting births of 1895 . . . . .	1,733 87
Extra work on Indexes . . . . .	580 13
Binding records in office . . . . .	1,399 63
Printing and stationery . . . . .	1,531 11
Sundries . . . . .	484 53
Transfer by Auditor January, 1897 . . . . .	3,872 75

\$30,000 00

Paid physicians for 11,829 births at 25c.  
reported from Feb. 1, 1896, to Feb. 1,  
1897, as per vouchers paid in by me to the  
Auditor, viz.:

Feb. 1 to May 30, 1896 . . . . .	\$799 25
June 1 to Sept. 30, 1896 . . . . .	932 25
Oct 1, 1896, to Feb. 1, 1897 . . . . .	1,225 75
	<u>2,957 25</u>

Cash paid City Collector, per voucher, Dec. 31, 1896 . . . . .	500 00
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\$33,457 25

Cash balance Feb. 1, 1897 . . . . . 265 50

\$33,722 75

Respectfully submitted,

WILLIAM H. WHITMORE,

*City Registrar.*





## APPENDICES.





## APPENDIX A.

### PERSONS PROMINENT ON ACCOUNT OF AGE OR SERVICE WHO DIED IN 1896.

DATE OF DEATH. 1896.			AGE.
Jan.	1	Robert Sylvester . . . . .	81
	1	Daniel Heavey . . . . .	80
	2	Lenthel Phillips . . . . .	81
	2	Mary A. M. Laurence . . . . .	81
	2	Elizabeth A. Blanchard . . . . .	77
	3	Joanna F. Rising . . . . .	83
	3	Rebecca B. Dixey . . . . .	75
	3	Frederic A. Gould . . . . .	81
	3	Nathaniel G. Clark (Rev.) . . . . .	70
	3	Bridget Casey . . . . .	87
	4	George Spring . . . . .	74
	5	Mary Fitton . . . . .	80
	5	Robert J. Farnsworth . . . . .	75
	6	Lucy H. Hale . . . . .	77
	6	Isabella Carroll . . . . .	79
	6	Elizabeth Pascal . . . . .	80
	6	Edward W. Odlin (Editor) . . . . .	36
	7	Betsey A. Payne . . . . .	79
	7	Susanna Devetier (colored) . . . . .	83
	9	George Golbert . . . . .	82
	9	Ann Bainbridge . . . . .	91
	10	Charles W. Oliver . . . . .	85
	10	Sarah D. Holt . . . . .	75
	10	Joanna Coakley . . . . .	84
	10	Francis F. F. Goeckeritz (M.D.) . . . . .	71
	10	Myra de Normandie (M.D.) . . . . .	35
	11	Catherine McLean . . . . .	89
	11	John P. Spaulding . . . . .	63
	12	Jeremiah O'Leary . . . . .	80
	12	Barbara Wallburg . . . . .	87
	12	Jacob Buerk (Inventor) . . . . .	73
	12	Thomas L. Vose (Officer at Deer Island) . . . . .	90
	13	Mary F. Sargent . . . . .	80
	13	Perkins H. Bagley . . . . .	81
	14	Phebe H. Woodward . . . . .	102
	15	George Cutler . . . . .	83
	16	Susan Boyle . . . . .	82
	16	Harriet Goldsmith . . . . .	76
	16	Maximilia S. Hovey . . . . .	76
	16	Catharine Welch . . . . .	86
	16	George W. Pope . . . . .	74
	16	William H. Whitaker . . . . .	77
	17	Hannah Denehy . . . . .	81
	17	Lydia R. Cook . . . . .	75
	17	Emeline Tileston . . . . .	79
	17	Martha Knott . . . . .	87



## DATE OF DEATH.

## AGE.

1896.

Jan.	17	Moses Woolson . . . . .	74
	18	David T. McKown . . . . .	85
	18	Henry Stone . . . . .	65
	19	Oliver N. French . . . . .	76
	19	Caroline M. Blanchard . . . . .	76
	19	Mary A. Pfaff . . . . .	84
	19	Ann Bird . . . . .	84
	19	Francis T. Church . . . . .	63
	19	Charlotte Babcock . . . . .	84
	20	Anne Cummings . . . . .	82
	20	Benjamin Cragin . . . . .	81
	20	Benjamin F. Richardson (M.D.) . . . . .	63
	21	Charlotte H. Andrews . . . . .	80
	21	David Rosengarten . . . . .	86
	23	Hannah B. Warren . . . . .	78
	24	Mary T. Horton . . . . .	84
	25	Abby L. Potter . . . . .	85
	25	Margaret Leary . . . . .	80
	26	Mary A. Clark . . . . .	83
	27	James Meade . . . . .	85
	27	Margaret Coffey . . . . .	81
	28	Bridget Murray . . . . .	80
	28	Bridget Maguire . . . . .	90
	28	Eliza A. Bickum . . . . .	89
	28	Rebecca Norris . . . . .	82
	31	Catharine Welch . . . . .	108
	31	Ellen McNamara . . . . .	85
	31	Conrad Ochs . . . . .	84
Feb.	2	William Wooley (Ex-Alderman) . . . . .	65
	2	James McGonigle . . . . .	77
	2	Mary Telford . . . . .	88
	3	Alexander Bornstein . . . . .	77
	4	Moses Fairbanks (Ex-Alderman) . . . . .	79
	5	George S. Pendergast . . . . .	80
	5	William S. Carpenter (Captain U. S. Navy) . . . . .	56
	6	William G. Russell (Lawyer) . . . . .	74
	7	Christopher Lloyd . . . . .	83
	7	Mary E. Capen . . . . .	76
	7	Alfred Emerson . . . . .	83
	8	Nathaniel N. Bates . . . . .	78
	9	Ruth B. Goldsmith . . . . .	87
	9	Richard M. Hodges (M.D.) . . . . .	69
	9	Ann G. Butler . . . . .	84
	10	Ellen Glassett . . . . .	88
	10	William H. Holland . . . . .	84
	12	Ann Cunningham . . . . .	82
	12	Sarah Allen . . . . .	76
	12	Mary Cangle . . . . .	80
	12	Ellen Duffy . . . . .	86
	13	Sophia T. Seaverns . . . . .	90
	13	Louisa Stevens . . . . .	81
	14	Susen C. McLeod . . . . .	82
	14	Margarett W. Pratt . . . . .	87
	14	Anne Connell . . . . .	79
	16	Joseph R. Gordon . . . . .	83

# REGISTRY DEPARTMENT.

11

DATE OF DEATH.

AGE.

1896.

Feb.	17	Maria A. Stevens . . . . .	82
	17	Elizabeth Lindenberg . . . . .	77
	17	Mary Holland . . . . .	79
	17	Samuel Hazlewood . . . . .	84
	17	Trueman B. Towne (Lawyer) . . . . .	47
	18	Mary H. Baldwin . . . . .	91
	18	Alonzo A. Fogg . . . . .	75
	19	Adam Weiffenback . . . . .	81
	19	Amy H. Ricketson . . . . .	80
	20	Ebenezer Wyman . . . . .	82
	21	Rachel N. Ambler . . . . .	79
	21	Hanora Stammers . . . . .	90
	21	Fannie Cannon . . . . .	80
	22	Nathaniel Turner . . . . .	85
	22	Abigail Grant . . . . .	87
	22	Patrick Brennan . . . . .	81
	23	Paola Vigniale . . . . .	80
	23	Aurella Bond . . . . .	89
	23	Harriet N. Harding . . . . .	79
	24	Henry P. Grace (U.S. Navy) . . . . .	64
	24	John Coughlin . . . . .	79
	25	Mary G. Estabrook . . . . .	84
	25	Elizabeth Tubbs . . . . .	83
	25	John L. Sinclair . . . . .	91
	25	Caroline E. Chapin . . . . .	87
	25	Nelson Vaughn . . . . .	88
	26	Mark A. Blaisdell (Lawyer) . . . . .	54
	26	Sarah Morse . . . . .	82
	26	Abbie G. Baker . . . . .	81
	27	Edward Harold . . . . .	90
	28	Thatcher Goddard . . . . .	44
	28	Sophia Haskins . . . . .	91
	28	Ann Matthews . . . . .	87
	29	Ellen Killion . . . . .	92
March	1	David Fine (Teacher) . . . . .	59
	1	Eliza Grimes . . . . .	81
	2	Fannie Davis . . . . .	86
	2	Sarah S. Marvin . . . . .	81
	3	Mary Costello . . . . .	86
	4	Elizabeth Baker . . . . .	87
	4	Cornelia A. Pino . . . . .	88
	5	Samuel T. Birmingham . . . . .	96
	6	Hannah Waitt . . . . .	82
	6	Henry T. Bliss . . . . .	76
	7	Esther McFarland . . . . .	86
	7	Martha H. Lewis . . . . .	83
	7	Margaret Murray . . . . .	92
	8	Sarah A. Guernsey . . . . .	79
	10	Robert LaRose . . . . .	80
	10	Agnes McOnie . . . . .	80
	11	Harriet S. Very . . . . .	77
	11	Margaret Kinney . . . . .	82
	12	Catherine S. Lincoln . . . . .	78
	14	Theodore Hutchings . . . . .	74
	15	Charles H. Gates . . . . .	79



## DATE OF DEATH.

## AGE.

1896.

March	15	Sophia Hunter	. . . . .	83
	15	M. Louisa Putnam (Teacher)	. . . . .	71
	16	Winthrop Sargent (M.D.)	. . . . .	73
	16	Harriet R. Mallory	. . . . .	85
	16	Bridget McMahon	. . . . .	85
	16	John L. Coffin	. . . . .	77
	17	John M. Sullivan	. . . . .	83
	17	Elvira C. Ward	. . . . .	88
	19	George F. Estabrook	. . . . .	82
	19	Nathan Clark	. . . . .	85
	20	Julia McGettrick	. . . . .	86
	20	Ann E. Cabot	. . . . .	84
	20	James Wallace	. . . . .	85
	21	Thomas Scully	. . . . .	92
	21	Roxanna Davis	. . . . .	81
	21	John B. Lane	. . . . .	76
	21	Oliver F. Stebbins	. . . . .	77
	21	Catherine Hayes	. . . . .	80
	22	Julia A. Bascom	. . . . .	79
	23	Joseph W. West	. . . . .	88
	23	Edward L. Grueby	. . . . .	87
	26	Mary E. Kavanaugh	. . . . .	82
	26	Sally A. Dwight	. . . . .	80
	26	James E. Farwell	. . . . .	77
	27	Susan M. Dolby	. . . . .	83
	27	Ellen Sweeney	. . . . .	90
	27	Lyman S. Hapgood	. . . . .	73
	27	Benjamin F. Hammond	. . . . .	82
	27	Miles S. Cahill	. . . . .	72
	27	Nahum J. Baldwin	. . . . .	72
	28	Patrick Colbert	. . . . .	79
	28	Charles S. Damrell	. . . . .	69
	29	Lucy Thomas	. . . . .	103
	30	Henry T. Dyer	. . . . .	79
	30	Anasthasie Bardin	. . . . .	82
	30	Burnham Royce (Constable)	. . . . .	74
	31	Nathan S. Cleveland	. . . . .	74
	31	Augustine W. Wood	. . . . .	76
	31	James Daley	. . . . .	85
April	1	Annie L. Dawes	. . . . .	82
	1	Otise Locke	. . . . .	80
	1	Josiah J. Wakefield (M.D.)	. . . . .	70
	2	Herman B. Stover	. . . . .	71
	3	Thomas F. Wyman	. . . . .	86
	3	Leslie A. Phillips (M.D.)	. . . . .	48
	4	Charles Nutter	. . . . .	82
	4	Solomon H. Spaulding	. . . . .	82
	5	Hyman Weiss	. . . . .	77
	5	Ann Kearns	. . . . .	86
	5	Alfred H. Sumner	. . . . .	86
	6	Eliza A. Moore	. . . . .	85
	6	Calvin A. Hill (M.D.)	. . . . .	75
	6	Sarah B. Hyde	. . . . .	84
	7	Elizabeth L. Means	. . . . .	86
	7	Aaron B. Babcock	. . . . .	72

# REGISTRY DEPARTMENT.

13

DATE OF DEATH.

AGE.

1896.

April	8	William Clark	.	.	.	.	.	.	.	86
	8	Augustus Bacon	.	.	.	.	.	.	.	80
	8	Mary J. Hicks	.	.	.	.	.	.	.	79
	8	Mary A. Duncan	.	.	.	.	.	.	.	84
	9	Joseph H. Cassin (Rev.)	.	.	.	.	.	.	.	60
	9	Edmund G. Barney	.	.	.	.	.	.	.	75
	9	Robert W. Newell (M.D.)	.	.	.	.	.	.	.	81
	10	Mary Maloy	.	.	.	.	.	.	.	86
	10	Solomon Poons	.	.	.	.	.	.	.	82
	10	Bridget Heath	.	.	.	.	.	.	.	85
	10	Mary H. Hall	.	.	.	.	.	.	.	81
	11	Rebecca Levy	.	.	.	.	.	.	.	90
	11	David Shurtleff (Rev.)	.	.	.	.	.	.	.	77
	11	Mary Wilson	.	.	.	.	.	.	.	81
	12	John S. Whiting (M.D.)	.	.	.	.	.	.	.	67
	12	Ellen Preston	.	.	.	.	.	.	.	80
	12	Jane D. Henry	.	.	.	.	.	.	.	84
	13	Isabella Crowe	.	.	.	.	.	.	.	87
	14	James Cannon	.	.	.	.	.	.	.	85
	15	Benjamin G. Blanchard	.	.	.	.	.	.	.	85
	16	Tabitha Witherell	.	.	.	.	.	.	.	82
	16	James L. Townsend	.	.	.	.	.	.	.	81
	17	Maria Sawyer	.	.	.	.	.	.	.	90
	17	Catharine Miller	.	.	.	.	.	.	.	83
	18	John Stetson, Jr	.	.	.	.	.	.	.	62
	18	William H. Barnes	.	.	.	.	.	.	.	81
	18	Elizabeth S. Clapp	.	.	.	.	.	.	.	76
	19	Henry Humphreys	.	.	.	.	.	.	.	95
	19	Cordelia R. Danforth	.	.	.	.	.	.	.	77
	22	Mary A. Burke	.	.	.	.	.	.	.	82
	23	Sarah Howe	.	.	.	.	.	.	.	78
	24	John Harney	.	.	.	.	.	.	.	83
	24	Susan M. Stackpole	.	.	.	.	.	.	.	81
	24	Martha Patterson	.	.	.	.	.	.	.	86
	24	Harriet S. Fuller	.	.	.	.	.	.	.	76
	26	William Barrett	.	.	.	.	.	.	.	90
	26	Phebe M. Gregory	.	.	.	.	.	.	.	80
	26	Harriet A. Chapin	.	.	.	.	.	.	.	76
	26	John H. Morison (Rev.)	.	.	.	.	.	.	.	87
	27	Catharine P. Chittenden	.	.	.	.	.	.	.	81
	27	Horace W. Latimer	.	.	.	.	.	.	.	87
	27	George Lowther	.	.	.	.	.	.	.	86
	27	Mary J. Bigelow	.	.	.	.	.	.	.	85
	28	Sophia B. French	.	.	.	.	.	.	.	79
	28	Henry L. Fowle	.	.	.	.	.	.	.	85
	28	James J. Walworth	.	.	.	.	.	.	.	87
	28	Louisa L. Brockway	.	.	.	.	.	.	.	86
	29	Carrie A. Cooke (Teacher)	.	.	.	.	.	.	.	40
	29	James Woods	.	.	.	.	.	.	.	90
	30	John Coakley	.	.	.	.	.	.	.	80
	30	Curtis Trask (Ex-Policeman)	.	.	.	.	.	.	.	67
May	1	Ann Kenney	.	.	.	.	.	.	.	85
	1	Ellen Sherry	.	.	.	.	.	.	.	80
	2	Eleazer Pope	.	.	.	.	.	.	.	81
	2	Granville S. Mendell (Fire-Alarm Operator)	.	.	.	.	.	.	.	61



DATE OF DEATH.								AGE.
1896.								
May	2	Harriet B. Otis	.	.	.	.	.	77
	3	Martha J. Dow	.	.	.	.	.	81
	4	Mary A. Heavey	.	.	.	.	.	87
	4	Eliza M. Hoyt	.	.	.	.	.	83
	4	Margaret Landregan	.	.	.	.	.	79
	5	Daniel Barr	.	.	.	.	.	79
	6	Mary A. Flagg	.	.	.	.	.	81
	6	Jane Nixon	.	.	.	.	.	92
	6	Patrick Kain	.	.	.	.	.	86
	6	Hannah A. Brigham	.	.	.	.	.	82
	6	Mary P. Chase	.	.	.	.	.	79
	8	Johanna Hollihan	.	.	.	.	.	79
	8	Julia O'Connell	.	.	.	.	.	86
	8	Lydia A. G. Ellison	.	.	.	.	.	79
	8	Bernard Connolly	.	.	.	.	.	79
	8	Philip Sowdon	.	.	.	.	.	79
	8	Edmund P. Dolbeare	.	.	.	.	.	81
	9	Edward T. Loring	.	.	.	.	.	81
	9	Jane Sproul	.	.	.	.	.	89
	10	Benjamin T. Young	.	.	.	.	.	82
	10	James Keefe	.	.	.	.	.	85
	10	Orlando Austin (Policeman)	.	.	.	.	.	59
	10	Thomas J. Canavan (Policeman)	.	.	.	.	.	26
	10	Elizabeth McCaffrey	.	.	.	.	.	97
	10	Emily W. Cook	.	.	.	.	.	78
	10	Abigail Pierce	.	.	.	.	.	86
	11	Mary Denison	.	.	.	.	.	81
	11	Annie E. Reed (Teacher)	.	.	.	.	.	49
	12	Hannah E. Gleason (Teacher)	.	.	.	.	.	48
	12	Catherine Hunt	.	.	.	.	.	78
	13	Jane Moorhead	.	.	.	.	.	79
	13	Amory H. Tyler (Rev.)	.	.	.	.	.	72
	13	Rhoda D. Frost	.	.	.	.	.	82
	15	John Barrett	.	.	.	.	.	83
	16	Jerusha Burr	.	.	.	.	.	96
	17	Mary J. Stoddard	.	.	.	.	.	82
	18	Eliza Linsley	.	.	.	.	.	85
	18	Ann Cummings	.	.	.	.	.	92
	21	Mary J. Musgrave	.	.	.	.	.	86
	22	Elizabeth S. Fisher (Teacher)	.	.	.	.	.	52
	22	Pierce Strange	.	.	.	.	.	79
	22	Edward K. Baxter (M.D.)	.	.	.	.	.	56
	22	Ellis B. McKenzie	.	.	.	.	.	85
	24	Mary Shay	.	.	.	.	.	90
	24	Addison Browne (Rev.)	.	.	.	.	.	72
	24	Bridget McNeil	.	.	.	.	.	82
	25	Charlott A. Lyman (Teacher)	.	.	.	.	.	65
	25	Joanna L. Taber	.	.	.	.	.	83
	25	John Pearce	.	.	.	.	.	80
	26	Elias Crafts	.	.	.	.	.	89
	26	Alexander Vannevar	.	.	.	.	.	80
	27	James P. Haskins	.	.	.	.	.	78
	28	John Keohan	.	.	.	.	.	87
	29	Anna P. Loring	.	.	.	.	.	80
	29	Louise Winder (colored)	.	.	.	.	.	96

# REGISTRY DEPARTMENT.

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DATE OF DEATH.

AGE.

1896.

May	29	Julia Crowley	.	.	.	.	.	.	.	84
	31	Daniel W. Glidden	.	.	.	.	.	.	.	85
	31	Margaret F. Granger	.	.	.	.	.	.	.	79
June	1	Helen M. Smart	.	.	.	.	.	.	.	85
	2	Elizabeth A. Robinson	.	.	.	.	.	.	.	78
	2	William F. Richardson	.	.	.	.	.	.	.	79
	3	Thomas J. Bourne	.	.	.	.	.	.	.	81
	3	Volney Wilder	.	.	.	.	.	.	.	91
	3	Martha A. Kingham	.	.	.	.	.	.	.	80
	4	Helen C. Bradlee	.	.	.	.	.	.	.	77
	4	Michael Kennedy	.	.	.	.	.	.	.	83
	5	Catherine Rowan	.	.	.	.	.	.	.	80
	5	Chauncy Squaires	.	.	.	.	.	.	.	71
	6	Frinda Bailey	.	.	.	.	.	.	.	81
	7	John Gillespie (M.D.)	.	.	.	.	.	.	.	35
	7	Joseph D. Smith	.	.	.	.	.	.	.	79
	7	Frances Magee	.	.	.	.	.	.	.	94
	7	James Gately	.	.	.	.	.	.	.	87
	8	Emmeline G. Hayward	.	.	.	.	.	.	.	79
	10	Rachel H. Smith	.	.	.	.	.	.	.	87
	10	George Morse	.	.	.	.	.	.	.	79
	10	Mary B. Walcott	.	.	.	.	.	.	.	85
	11	Zebulon E. Coffin	.	.	.	.	.	.	.	78
	11	Caroline M. Barker	.	.	.	.	.	.	.	97
	13	Lucy E. Herring	.	.	.	.	.	.	.	89
	13	Susan A. Rice	.	.	.	.	.	.	.	83
	13	Henry Alexander (colored)	.	.	.	.	.	.	.	84
	14	Bridget Mooney	.	.	.	.	.	.	.	80
	14	Sarah Donnelly	.	.	.	.	.	.	.	90
	16	Cora Y. McGill (M.D.)	.	.	.	.	.	.	.	31
	17	Edwin J. Wetmore (Game Com.)	.	.	.	.	.	.	.	67
	18	Maria Demerest	.	.	.	.	.	.	.	89
	18	Thomas Sheehan	.	.	.	.	.	.	.	79
	19	Fanny Emery	.	.	.	.	.	.	.	79
	20	John McElroy	.	.	.	.	.	.	.	83
	20	Horace Dodd	.	.	.	.	.	.	.	93
	20	Robert W. Bibber	.	.	.	.	.	.	.	70
	20	Almira F. Winslow	.	.	.	.	.	.	.	80
	21	Benejah Cross	.	.	.	.	.	.	.	85
	21	Patrick Gately	.	.	.	.	.	.	.	80
	22	Mary Gibson	.	.	.	.	.	.	.	96
	22	Sarah Lord	.	.	.	.	.	.	.	95
	23	Robert Bampton	.	.	.	.	.	.	.	83
	23	Paul B. Eltz	.	.	.	.	.	.	.	78
	24	Hannah Remie	.	.	.	.	.	.	.	80
	26	Rebecca W. Faunce	.	.	.	.	.	.	.	83
	27	Elizabeth A. Saville	.	.	.	.	.	.	.	81
	29	Frances Upham	.	.	.	.	.	.	.	85
	29	John E. Larned	.	.	.	.	.	.	.	79
July	1	Eli Simonds	.	.	.	.	.	.	.	78
	2	Catherine Connaughton	.	.	.	.	.	.	.	82
	3	Rosanna Dore	.	.	.	.	.	.	.	83
	3	Ann Coleman	.	.	.	.	.	.	.	98
	4	William Burke	.	.	.	.	.	.	.	82
	4	James Somes	.	.	.	.	.	.	.	84



## DATE OF DEATH.

## AGE.

1896.

July	6	Catherine P. Shailer . . . . .	81
	7	Nathan F. Fuller . . . . .	76
	8	Nora Bradley . . . . .	90
	9	James M. Ballard . . . . .	80
	9	Mary A. Lincoln . . . . .	83
	9	Charles H. Crosby . . . . .	77
	9	Amity Stinson . . . . .	85
	9	Randall Jones (colored) . . . . .	84
	10	Oliver Libby . . . . .	77
	10	Elizabeth Jennings . . . . .	80
	10	Sarah Dougherty . . . . .	80
	10	Elizabeth M. Copeland . . . . .	88
	11	Mary McCarthy . . . . .	85
	11	Joanna Ayers . . . . .	80
	11	Sally J. Winn . . . . .	80
	11	William H. Robinson, of New York (Rev.) . . . . .	34
	13	George P. Smith . . . . .	72
	13	Peter M. Macdonald (Rev.) . . . . .	50
	14	Lucy Winston . . . . .	97
	15	William B. McKenney . . . . .	80
	15	John Leahy (Deputy Sheriff) . . . . .	61
	16	Owen K. Harkins . . . . .	79
	17	Thomas Brown . . . . .	91
	18	Thomas Leavitt . . . . .	85
	18	Dennis Fitzpatrick . . . . .	80
	19	George M. Brown . . . . .	82
	19	Catharine Bubier . . . . .	79
	20	Martin Whalen . . . . .	82
	20	Leopold D. Hohenstein . . . . .	85
	20	Delia E. J. Durant . . . . .	82
	20	Margaret Maloney . . . . .	82
	20	Catherine Doherty . . . . .	80
	20	John Gayron . . . . .	80
	21	Susan E. Fenno . . . . .	82
	23	Manuel Cabral . . . . .	95
	27	Charles Whitechurch . . . . .	80
	27	Eliza Jelly . . . . .	84
	27	Horace K. Batchelder . . . . .	78
	28	George Dodge . . . . .	79
	28	Lewis J. Gray (Master Mariner) . . . . .	77
	29	Mary E. Conrad . . . . .	80
	29	Catherine McLaughlin . . . . .	82
	30	Harriet N. Judson . . . . .	79
	31	Thomas C. Savory . . . . .	78
Aug.	1	Mary Green . . . . .	96
	1	Elijah Stearns . . . . .	83
	2	Abraham Sereque . . . . .	91
	2	Mary Sullivan . . . . .	90
	3	Mary J. Parker . . . . .	78
	4	Catherine E. Hock . . . . .	88
	4	Clara Moore . . . . .	80
	4	Walter J. Dobbins . . . . .	77
	5	Mary G. Randall . . . . .	86
	6	William Butterfield . . . . .	83
	6	Ann Connelly . . . . .	80

# REGISTRY DEPARTMENT.

17

DATE OF DEATH.

AGE.

1896.

Aug.	7	Catherine Gerrity . . . . .	85
	8	George R. Kramer (Rev.) . . . . .	57
	8	William C. Smith . . . . .	86
	9	Daniel Boyle . . . . .	90
	10	Albert B. Hill . . . . .	87
	10	Ellen Sullivan . . . . .	83
	10	Daniel Meehan . . . . .	86
	10	Mary Linnehan . . . . .	80
	10	Betsey T. Davis . . . . .	79
	11	Mary Bergen . . . . .	82
	11	Elizabeth Watson . . . . .	89
	12	Ann Halfpenny . . . . .	86
	12	James D. Blacker . . . . .	86
	13	Mary Winchell . . . . .	82
	13	Catherine Lane . . . . .	80
	14	Charlotte T. Jewett . . . . .	81
	15	Margaret Palmer . . . . .	87
	15	Susan E. Wood . . . . .	84
	15	William G. Moseley . . . . .	97
	17	John Lightner . . . . .	86
	17	Ellen McCormick . . . . .	85
	18	Eliza Lang . . . . .	82
	19	Tamar Anderson . . . . .	81
	21	Ann E. Webster . . . . .	85
	21	Sarah E. Story . . . . .	81
	21	Rebecca Mott . . . . .	80
	24	Owen Mullane . . . . .	80
	24	Daniel Ginn . . . . .	85
	25	Edward Richards . . . . .	79
	27	Howard W. Atkins . . . . .	78
	28	Frank Lynch . . . . .	86
Sept.	1	Charles C. Conley . . . . .	85
	2	Frederick W. Coolidge . . . . .	80
	2	Catherine Whelan . . . . .	83
	2	Almira B. Smith . . . . .	79
	3	Margaret Hunt . . . . .	86
	8	Catherine Parker . . . . .	80
	8	James Gerrard . . . . .	82
	9	Jane Wood . . . . .	88
	10	Mary A. Davis . . . . .	87
	10	William B. Fifield (M.D.) . . . . .	68
	11	Edward Grace . . . . .	79
	11	Francis J. Child (Professor Harvard College) . . . . .	79
	11	Sarah A. Perkins . . . . .	83
	12	Mary E. Curtis . . . . .	93
	13	Elizabeth R. Davies . . . . .	88
	13	Charles L. Randall (Physician) . . . . .	55
	13	Margaret Connolly . . . . .	86
	14	Polly Daniels . . . . .	81
	15	Ezra B. Dickinson . . . . .	80
	16	Abigail Vaughn . . . . .	90
	16	Walter S. Robinson . . . . .	79
	18	Theodore Dunn . . . . .	83
	20	William Clark . . . . .	88
	20	William Laverson . . . . .	86



## DATE OF DEATH.

## AGE.

1896.

Sept.	21	Seth Williams	.	.	.	.	.	.	91
	23	Martha G. Wentworth	.	.	.	.	.	.	81
	23	Sarah A. Carnes	.	.	.	.	.	.	82
	27	John M. Illingworth	.	.	.	.	.	.	80
	27	Louisa Wetherbee	.	.	.	.	.	.	86
	28	Ellen Barry	.	.	.	.	.	.	84
	29	Catherine Surpluss	.	.	.	.	.	.	80
	29	Olson F. Poole	.	.	.	.	.	.	79
	30	Margaret Mullin	.	.	.	.	.	.	91
Oct.	1	Mary A. Howe	.	.	.	.	.	.	81
	2	Ellen Hickey	.	.	.	.	.	.	80
	2	Henry St. J. Godbold	.	.	.	.	.	.	82
	3	Ezra Young	.	.	.	.	.	.	79
	4	Milicent H. Hall	.	.	.	.	.	.	90
	4	Jesse Hitchcock	.	.	.	.	.	.	78
	5	Rose Ryan	.	.	.	.	.	.	97
	9	Martha A. Bredeen	.	.	.	.	.	.	84
	9	Jeremiah Preble	.	.	.	.	.	.	81
	12	Joseph W. Page	.	.	.	.	.	.	85
	12	Isabella G. B. Patterson	.	.	.	.	.	.	83
	13	Margaret T. Waterbury	.	.	.	.	.	.	81
	13	Catherine Kelley	.	.	.	.	.	.	84
	14	Thomas Carney	.	.	.	.	.	.	81
	15	Elizabeth G. Phelps	.	.	.	.	.	.	93
	16	Mary Scott	.	.	.	.	.	.	89
	16	Hannah Ordway	.	.	.	.	.	.	91
	17	Duncan McLean	.	.	.	.	.	.	85
	17	Catherine Daley	.	.	.	.	.	.	80
	17	Fidelia Buck	.	.	.	.	.	.	81
	18	Mary Kilroy	.	.	.	.	.	.	90
	20	Elizabeth H. Upham	.	.	.	.	.	.	83
	20	Rebecca Cormey	.	.	.	.	.	.	84
	21	John Wilson	.	.	.	.	.	.	85
	21	Patrick Feeney	.	.	.	.	.	.	85
	22	Mary J. Seavey	.	.	.	.	.	.	82
	22	John H. Fowler	.	.	.	.	.	.	79
	23	Isabella Burk	.	.	.	.	.	.	82
	23	Jerusha S. Kenison	.	.	.	.	.	.	83
	24	Jemima Hodges	.	.	.	.	.	.	79
	26	Joanna Hogan	.	.	.	.	.	.	86
	27	Emma A. Turnbull (M.D.)	.	.	.	.	.	.	44
	27	James Crosby	.	.	.	.	.	.	76
	28	Charles F. McCann (M.D., of New York City)	.	.	.	.	.	.	33
	30	Stephen S. Andrews	.	.	.	.	.	.	81
	31	Ann Carl	.	.	.	.	.	.	80
Nov.	1	Eliza R. Holmes	.	.	.	.	.	.	80
	2	Ann Batchelor	.	.	.	.	.	.	86
	2	William Downing	.	.	.	.	.	.	81
	3	John H. Collamore	.	.	.	.	.	.	79
	3	Lucy G. Card	.	.	.	.	.	.	83
	4	Alonzo H. Quint (Rev.)	.	.	.	.	.	.	68
	4	Agnes H. A. Clark	.	.	.	.	.	.	90
	5	Sophia E. Stillings	.	.	.	.	.	.	84
	6	William C. Holyoke (M.D.)	.	.	.	.	.	.	54
	6	Frederick Gleason	.	.	.	.	.	.	80

## DATE OF DEATH.

## AGE.

1896.

Nov.	6	Michael Mitchell . . . . .	81
	7	Henry E. Parker (Rev.) . . . . .	75
	7	Luman B. Parkhurst (M.D.) . . . . .	52
	7	Coleman Cook . . . . .	74
	7	Benjamin F. Butler . . . . .	86
	8	John Moore . . . . .	79
	8	Mary Hilsebusch . . . . .	80
	8	Henry Richards . . . . .	81
	9	Elizabeth O'Connell . . . . .	89
	10	Samuel A. Gray . . . . .	76
	11	Margaret Dooley . . . . .	80
	12	Emily A. Spiller . . . . .	79
	12	Luther Farwell . . . . .	86
	13	Charles W. Hill (Teacher) . . . . .	62
	13	Alfred C. Godfrey (Rev.) . . . . .	77
	13	Louis Zepfler . . . . .	79
	13	Augustus Thorndike . . . . .	84
	13	Nelson Jenney . . . . .	83
	14	Bridget Gannon . . . . .	80
	15	Timothy Crowley . . . . .	81
	15	Lucy C. Freedly . . . . .	84
	16	George Fowler . . . . .	84
	17	Ellen O'Hearn . . . . .	80
	17	William T. Hart . . . . .	79
	18	Hugh Gallagher . . . . .	86
	19	Peter Freeman . . . . .	84
	20	Abigail P. Glover . . . . .	86
	21	Mary Battles . . . . .	84
	21	Horace B. Sargent, Jr. (Lawyer) . . . . .	49
	21	John P. Lynch (U.S. Detective) . . . . .	71
	22	William Lennon . . . . .	84
	23	Lorenzo F. Langan . . . . .	81
	23	Margaret N. Webster . . . . .	92
	23	James Ball . . . . .	79
	25	Martha Fountain . . . . .	86
	27	John W. Cook . . . . .	79
	27	Rachel A. Smith (Matron) . . . . .	77
	28	Isham Harris . . . . .	85
	28	Michael Foley . . . . .	87
	29	Oliver Crane (Rev.) . . . . .	74
Dec.	1	Margaret B. Phippen . . . . .	81
	2	William J. Green . . . . .	87
	3	Lewis Johnson . . . . .	91
	3	Mary F. Davis . . . . .	86
	3	Stevens G. Palmer . . . . .	81
	3	Matthew Cheney . . . . .	75
	4	Sarah Butler . . . . .	85
	4	Nancy Lennon . . . . .	83
	6	Alfred A. Hall . . . . .	86
	6	Phebe K. Gibbs . . . . .	88
	6	Elizabeth T. L. Warren . . . . .	84
	7	Polly K. Knowles . . . . .	90
	7	Sylvester E. Partridge . . . . .	78
	7	Charles Farrell . . . . .	86
	9	William Hendry . . . . .	82



## DATE OF DEATH.

## AGE.

1896.

Dec.	9	Catherine Francis . . . . .	84
	9	Maria Curtis . . . . .	86
	10	Adolph G. Roeth (M.D.) . . . . .	45
	11	James R. Kendrick . . . . .	63
	11	Eleanor A. Clark . . . . .	81
	12	Sarah K. Safford . . . . .	85
	13	Clarina S. Blake . . . . .	83
	14	Susan D. Story . . . . .	79
	15	John McNamara . . . . .	80
	15	George S. Putnam . . . . .	77
	16	Edward O'Malley . . . . .	98
	17	Elmira Bradley . . . . .	86
	17	Moses Proctor . . . . .	75
	17	Alverse L. White . . . . .	83
	17	William Miller . . . . .	86
	17	Elizabeth Robertson . . . . .	81
	18	George W. Strout . . . . .	86
	19	Jane Fulghum (colored) . . . . .	83
	19	Lydia O. Fox . . . . .	85
	19	Olive Wildes . . . . .	90
	20	Samuel C. Appleton . . . . .	80
	20	Mary Lang . . . . .	82
	20	Philip Mayer . . . . .	71
	21	Howland Otis . . . . .	79
	21	Ruth H. Spear . . . . .	93
	21	Alvin B. Butterfield . . . . .	77
	22	Edward W. Wilder . . . . .	81
	22	Mary Crozier . . . . .	82
	22	Ann E. Jones . . . . .	96
	23	Elizabeth A. Downing . . . . .	86
	24	Mary A. Lawrence . . . . .	96
	24	Harriet A. Stevens . . . . .	79
	25	Susan A. Gay (M.D.) . . . . .	72
	25	Wyzeman Marshall . . . . .	80
	25	Sarah A. Hall . . . . .	85
	25	Elizabeth A. West . . . . .	80
	26	Jacob E. Hosmer . . . . .	76
	26	Gerald Sickles . . . . .	85
	26	Ellen Keenan . . . . .	95
	26	Stephen A. Stackpole (ex-Alderman) . . . . .	78
	27	Isaac S. Morse . . . . .	80
	27	Ann E. Kimball . . . . .	79
	28	Thomas M. Lang . . . . .	84
	29	Frederick Ockerhausen (M.D.) . . . . .	81
	29	Catharine C. Schmalhof . . . . .	84
	29	Edward Avery (Lawyer) . . . . .	69
	30	Martha Smith . . . . .	86
	31	Marshall Johnson . . . . .	79

*Residents of Boston, who died elsewhere.*

Aug.	2	Lorenzo Stevens (Taunton) . . . . .	85
Sept.	13	Ellen Holden (Swampscott) . . . . .	80
	14	Charles Wheeler (ex-Councilman, Oxford, N.H.) . . . . .	57
Oct.	7	Spencer Nolen (Sherborn) . . . . .	87

## APPENDIX B.

## INTRODUCTION.

For many reasons it seems desirable to collect in chronological arrangement, the laws relating to marriages and the registration thereof, from the date of the establishment of the Commonwealth.

The history of the marriage laws prior to that date has been admirably set forth by Chief Justice HORACE GRAY of our Supreme Court, in the case of *Commonwealth v. Munson*, decided in Oct., 1879, and reported in 127 Mass. Reports.

With the consent of the Reporter of Decisions, the opinion is given in full.

W. H. W.

OPINION OF THE SUPREME COURT IN THE CASE OF  
COMMONWEALTH *v.* MUNSON.

GRAY, C. J. In Massachusetts, from very early times, the requisites of a valid marriage have been regulated by statutes of the Colony, Province, and Commonwealth; the canon law was never adopted; and it was never received here as common law, that parties could by their own contract, without the presence of an officiating clergyman or magistrate, take each other as husband and wife, and so marry themselves. *Milford v. Worcester*, 7 Mass. 48, 53. 2 Dane Ab. 291, 301. 2 Winthrop's Hist. New England, 43. This clearly appears on tracing the history of the legislation upon the subject; the whole of which, whether repealed or unrepealed, is by a familiar rule to be considered in ascertaining the intention of the Legislature. *Church v. Crocker*, 3 Mass. 17, 21. *Eaton v. Green*, 22 Pick. 526, 531. *Commonwealth v. Bailey*, 13 Allen, 541, 545.

As early as 1639, it was "ordered and declared" by the General Court, "that there be records kept of the days of every marriage, birth and death of every person within this jurisdiction." 1 Mass. Col. Rec. 276. Anc. Chart. 43. In 1642, it was enacted that "the magistrates and other persons appointed to marry shall yearly deliver to the recorder of that court which is nearest to the place of their habitation the names of such persons as they have married, with the days, months and years of the same; and the said recorders are faithfully and carefully to enrol such marriages as shall thus be committed to their trust;" and in 1644,



every new-married man was required "to bring in a certificate of his marriage, under the hand of that magistrate which married him, to the clerk of the writs," to be recorded. 2 Mass. Col. Rec. 15, 59. Mass. Col. Laws (ed. 1660) 68; (ed. 1672) 130. Anc. Chart. 181.

The requisite of solemnization before a magistrate or other authorized person, as essential to constitute a valid marriage, which had been clearly implied in these statutes, was distinctly expressed in the following statute of 1646: "As the ordinance of marriage is honorable amongst all, so should it be accordingly solemnized. It is therefore ordered by this Court and authority thereof, that no person whatsoever in this jurisdiction shall join any persons together in marriage, but the magistrate, or such other as the General Court or Court of Assistants shall authorize in such place where no magistrate is near. Nor shall any join themselves in marriage, but before some magistrate or person authorized as aforesaid. Nor shall any magistrate, or other person authorized as aforesaid, join any persons together in marriage, or suffer them to join together in marriage in their presence, before the parties to be married have been published according to law." Mass. Col. Laws (ed. 1660) 52; (ed. 1672) 102. Anc. Chart. 152.

In 1656 and 1658, the "commissioners for ending small causes in the several towns where no magistrate dwells" were "authorized and empowered to solemnize marriage between parties legally published;" "and all other commissions in this case are hereby made void." 4 Mass. Col. Rec. pt. i. 255, 322. Anc. Chart. 152. The provision of the St. of 1646, prohibiting persons to join themselves in marriage, except before a magistrate or other authorized person, continued in force throughout the period of the colony charter.

By the Prov. St. of 1692-3 (4 W. & M.) c. 25, "every justice of the peace within the county where he resides, and every settled minister in any town, shall and are hereby respectively empowered and authorized to solemnize marriages, within their respective towns and counties, betwixt persons that may lawfully enter into such a relation, having the consent of those whose immediate care and government they are under, and being likewise first published" as therein directed; and "every justice and minister shall keep a particular register of all marriages solemnized before any of them, and make a return thereof" quarterly to the clerk of the sessions of the peace of the county, to be by him registered. 1 Prov. Laws (State ed.) 61. Anc. Chart. 242.

By the Prov. St. of 1695-6 (7 W. III) c. 2, § 4, "for the better preventing of clandestine marriages," it is enacted that "no person other than a justice of the peace, and that within his own county only, or ordained minister, and that only in the town where he is settled in the work of the ministry, shall or may presume to join any persons together in marriage; nor shall any justice or minister join any person in marriage other than such one or both of whom are inhabitants or residents in such county or town respectively;" with more specific provisions as to publication of banns and consent of parents and guardians, and a further provision that any justice, minister or other person offending

against this act shall suffer a penalty, and be "forever after disabled to join persons in marriage," and be also liable to an action by the parent or guardian. 1 Prov. Laws, 209, 210. Anc. Chart. 283.

By the Prov. St. of 1716-17 (3 Geo. I.) c. 16, after reciting in the preamble the principal passage above quoted from the act of 1695-6, it is enacted that "the power granted ministers to join persons together in marriage be hereby enlarged, so as that where there shall be no settled ordained minister in any town or precinct, or where the only settled ordained minister of any town or precinct is himself to be married, it shall and may be lawful in such cases for the next settled ordained minister in another town within the same county to join in marriage the minister, or inhabitants of such town or precinct destitute of such settled ordained minister, if such minister or inhabitants desire it, according to the rules prescribed by the laws of this Province for the consummating marriages;" and penalties are imposed on ministers and clerks neglecting to return or record marriages. 2 Prov. Laws, 60. Anc. Chart. 416.

So by an act of 1773 (13 Geo. III.) the authority of each minister of the Church of England within the Province to join persons in marriage, (which had previously been limited to persons belonging to the town in which the minister himself dwelt,) was not only extended to include persons usually worshipping with him and whose ministerial taxes he had a right by law to receive, although not belonging to the same town; but it was enacted that "where any minister of the Church of England is himself to be married, or where such minister shall be removed by death or otherwise, so that the religious society of Christians in which he presided shall be destitute of a minister, it shall be lawful in such cases for the next minister within the Province of the same denomination to join in marriage the minister, or any of the people constituting such religious society who may lawfully enter into such a relation." Mass. Perpetual Laws (Supplts. to ed. 1759) 632. Anc. Chart. 679.

These statutes plainly signify that by the law of the Province even a minister, authorized to solemnize marriages between other persons, could not marry himself.

The only other statutes of the Province which have come to our notice are one of 1727 (1 Geo. II.) providing for the publication of banns of persons residing in places where there was no town clerk, and one of 1763 (3 Geo. III.) concerning the powers of ministers whose parishes were made out of two or more adjacent towns. 2 Prov. Laws, 464. Mass. Perpetual Laws (Supplts. to ed. 1759) 444. Anc. Chart. 462, 655.

The Province laws on this subject remained in force until after our Revolution; and it was before they had been changed by any statute of the Commonwealth that the marriage took place, the validity of which was brought in question in the leading case of *Milford v. Worcester*, 7 Mass. 48. In that case it appeared that in 1784 a man and a woman went together into a room where a justice of the peace happened to be, and in his presence, and before other witnesses, after producing a cer-



tificate that their intentions of marriage had been published the man declared that he took the woman as his lawful wife, and she declared that she took him as her lawful husband, and each made to the other the vows and promises usual in contracting marriages ; but upon the question whether this proceeding was directed and encouraged by the justice the evidence was conflicting. It was ruled by Mr. Justice (afterwards Chief Justice) Sewall at the trial, and held by the full court in an elaborate judgment delivered by Chief Justice Parsons, that, if the proceeding had not the sanction of the justice as a magistrate, the marriage was void, and neither the woman nor her children took the settlement of the man. The position that the marriage, though not solemnized pursuant to the statutes, was yet a lawful marriage, had between parties competent to contract marriage, and not declared void by any statute, was fully argued and considered ; and the court, while admitting the strength of that position in States the laws of which had prescribed no regulations for the celebration of marriages, was clearly of opinion that the provisions of our statutes, by necessary implication, prohibited persons from solemnizing their own marriages by any form of mutual engagement, or in the presence of any witnesses whatever.

The St. of 1786, c. 3, manifested no intention to change the law in this respect. While it expressly repealed all former laws relating to the solemnization of marriages, it substantially reenacted many of their provisions. It empowered justices of the peace within their counties, and stated and ordained ministers within their towns or parishes, to solemnize marriages ; provided that, when any such minister was himself to be married, it should be lawful for any other such minister within the same county to marry him ; required "all persons desiring to be joined in marriage" to have their intention published, and to "produce to the justice or minister who shall be desired to marry them" a certificate of such publishment ; obliged justices and ministers to keep records and make returns of the marriages solemnized by them ; and made persons illegally solemnizing marriages, or neglecting to make returns, subject to penalties, and to be thereafter disqualified from joining persons in marriage.

It also contained a new provision declaring marriages which had been or should be had and solemnized among Quakers or Friends, in the manner and form used and practised in their societies, to be good and valid in law, and requiring the clerk or keeper of the records of the meeting at which such marriages should be had and solemnized to make returns thereof. St 1786, c. 3, § 7. This section, Chief Justice Parsons tells us, was enacted in consequence of the general opinion of lawyers that such marriages were void before. *Milford v. Worcester*, 7 Mass. 56.

The St. of 1786 (after being amended in some unimportant particulars by the Sts. of 1795, c. 7, 1817, cc. 61, 141, and 1820, c. 55) was repealed by the St. of 1834, c. 177, which contained similar provisions, but allowed resident ministers to solemnize marriages throughout the Commonwealth, and therefore omitted as unnecessary the specific pro-

vision of former statutes as to the marriage of ministers, and also declared — thereby clearly implying that some solemnization beyond the mere contract of the parties was considered essential — that “all marriages, between persons who might lawfully enter into that relation, heretofore solemnized by any justice or minister, be and they hereby are confirmed and made valid in law, although such justice or minister may have exceeded his authority or jurisdiction.”

In the Rev. Sts. c. 75, the provisions of the previous statutes are substantially reënacted, and the following section [§ 24] is added: “No marriage, solemnized before any person professing to be a justice of the peace, or a minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, on account of any want of jurisdiction or authority in such supposed justice or minister, or on account of any omission or informality in the manner of entering the intention of marriage, or in the publication of the banns; provided, that the marriage be in other respects lawful, and be consummated with a full belief, on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.” Rev. Sts. c. 75, § 24.

The object of this section, as declared in the Report of the Commissioners who framed it, was to adopt the principle stated in *Milford v. Worcester*, that a marriage would be lawful, if solemnized before a justice or minister, although without publication of the banns and without the consent of parents or guardians; and to extend that principle so as to prevent marriages from being invalidated on account of some defect, not known or suspected by either party, in the ordination of the minister or the commission of the justice in whose presence the marriage ceremony was performed. That the Commissioners understood the presence of some person, being or believed to be a magistrate or minister, to be necessary to the validity of every marriage of persons other than Quakers in this Commonwealth, clearly appears by their concluding sentence: “The essence of the contract is the assent of the parties; and if this assent is formally and solemnly given in the presence of one who is acting as a justice or minister, and who is honestly believed to be qualified as such, it furnishes all the security against fraud and surprise, which the law was designed to provide for.”

The existing laws upon the subject are mostly contained in the Gen. Sts. c. 106; and the only modification since the Rev. Sts. that is worthy of notice is that by which, where the fact of marriage is required to be proved before any court, evidence of the admission of that fact by the defendant, or of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence, is made competent. Sts. 1840, c. 84; 1841, c. 20. Gen. Sts. c. 106, § 22. Evidence of the kind here mentioned is simply made competent, not controlling when the whole truth appears.

Under all changes in the form of the statutes it has always been assumed in this Commonwealth, and in the State of Maine, which was originally a part thereof, that (except in the single case of Quakers, or



Friends, whose marriages are made valid by a special provision limited to that sect, and, though not solemnized by any magistrate or minister, are witnessed, recorded, and returned by the principal officer of the meeting at which the ceremony is performed) a marriage which is shown not to have been solemnized before any third person, acting or believed by either of the parties to be acting as a magistrate or minister, is not lawful or valid for any purpose. *Medway v. Needham*, 16 Mass. 157, 159. *Commonwealth v. Spooner*, 1 Pick. 235. *Meyers v. Pope*, 110 Mass. 314, 316. *Thompson v. Thompson*, 114 Mass. 566, 567. St. 1879, c. 116. *Brunswick v. Litchfield*, 2 Greenl. 28. *Ligonia v. Buxton*, 2 Greenl. 102. *State v. Hodgskins*, 19 Maine, 155. *State v. Bowe*, 61 Maine, 171, 177. See also *Dunbarton v. Franklin*, 19 N.H. 257, 266; *Northfield v. Plymouth*, 20 Vt. 582, 591; *Goshen v. Stonington*, 4 Conn. 209, 219; *Bashaw v. State*, 1 Yerger, 177; *Dennison v. Dennison*, 35 Md. 361.

It is proper, however, to notice more particularly the Massachusetts cases, on which the defendant's counsel relied.

The case decided by the Superior Court of Judicature of the Province in 1758, and cited in Quincy's Reports, 29, note, appears by the record there referred to, to have been as follows: Flora, a negro woman, was indicted on the Prov. St. of 1696 (8 W. III.,) c. 11, "to prevent the destroying and murdering of bastard children," which had this preamble: "Whereas many lewd women that have been delivered of bastard children, to avoid their shame and escape punishment, do secretly bury or conceal the death of their children, and after, if the child be found dead, the said women do allege that the said child was born dead, whereas it falleth out sometimes (though hardly it is to be proved) that the said child or children were murdered by the said women their lewd mothers, or by their assent or procurement," and which therefore enacted that any woman who should be delivered of a child "which, if it were born alive, should by law be a bastard," and endeavor to conceal the death thereof, whether it were born alive or not, should suffer death as in case of murder, unless she could prove that the child was born dead. 1 Prov. Laws, 255. Anc. Chart. 293. The indictment alleged, in the usual form of an indictment for murder, that the defendant threw her child alive into a vault and immersed it in the water and excrements therein, and thereby drowned and suffocated it. The jury, by special verdict, found "that the said Flora is and from her nativity has been a negro slave; that she was never married according to any of the forms prescribed by the laws of this land, but that the person supposed to be the father of the said child was also a slave, and had kept her company with her master's consent for above a year and a half before that she was delivered alone of the female child mentioned in the indictment, and thrust the same child into the vault and under the excrements and water, and that the same child was taken out dead therefrom, and that, by means of her so immersing the said child and concealing the death thereof, it cannot be known whether the said child was born dead or alive;" and the jury found the defendant

guilty or not guilty, according to the opinion of the court upon the question whether "the said female child, had it been born alive, would have been a bastard, within the meaning and design of" the statute on which the indictment was founded. "After mature advisement upon the said verdict, the court are of opinion that the said Flora is not guilty." Flora's case, Rec. 1758, fol. 295. We have no report of the grounds of that opinion; but it may well be that the court thought that so highly penal a statute, changing the ordinary rule as to burden of proof in criminal cases, should be strictly construed, and that the case was not within the evil which it was intended to prevent, as expressed in the preamble.

In *Parton v. Hervey*, 1 Gray, 119, it was decided, 1st, that the age of consent in this Commonwealth, as by the common law of England, was fourteen in males and twelve in females; and 2d, that the Prov. St. of 1695-6 (7 W. III.) c. 2, the Sts. of 1786, c. 3, and 1834, c. 177, and the Rev. Sts. c. 75, §§ 15, 19, prohibiting justices and ministers, under a penalty, from solemnizing marriages of males under twenty-one or of females under eighteen, without the consent of their parents or guardians, did not make void the marriage of a girl thirteen years old, solemnized by a justice or minister without such consent. The decision on the first point finds additional and conclusive support in the Prov. St. of 1694-5 (6 W. & M.), c. 5, § 5, which defined the age of consent to be in "the man fourteen years of age, the woman twelve." 1 Prov. Laws, 172. Anc. Chart. 278. 2 Dane Ab. 301. The decision on the second point was in exact accordance with the statement of Chief Justice Parsons in *Milford v. Worcester*, referred to in the Commissioners' Report on the Revised Statutes, as already mentioned, that "when a justice or minister shall solemnize a marriage between parties who may lawfully marry, although without publication of the banns of marriage, and without the consent of the parents or guardians, such marriage would unquestionably be lawful, although the officer would incur the penalty of fifty pounds for a breach of his duty." 7 Mass. 54, 55. The general statement of Mr. Justice Bigelow in the course of his discussion of this point — that, "in the absence of any provision declaring marriages, not celebrated in the prescribed manner, or between parties of certain ages, absolutely void, it is held that all marriages, regularly made according to the common law, are valid and binding, although had in violation of the specific regulations imposed by statute" — evidently had regard to the effect of specific regulations as to the publication of banns or the consent of parents, and not to the broader question, which was not before him, whether any presence of a third person was necessary. If the learned judge had intended to cast any doubt on the adjudication of that question in *Milford v. Worcester*, he would hardly have referred, as he did, to that case as supporting his statement. 1 Gray, 122.

In *Meyers v. Pope*, 110 Mass. 314, there was evidence that the parties went before a person whom they supposed to be a justice of the peace of the county, with the intent on the part of both to contract marriage



before him; that in his presence and hearing the man said that the woman was his wife; and that they afterwards cohabitated together, believing themselves to have been then and thereby lawfully married. The extent of the decision, as stated by Chief Justice Chapman, was that the provision of the Rev. Sts. c. 75, § 24, and the Gen. Sts. c. 106, § 20, already quoted, (by which the law as declared in *Milford v. Worcester*, has been so far modified as to make a marriage before a justice or minister, believed by either of the parties to be authorized, as valid as if he were in fact authorized to solemnize the marriage,) should by a liberal construction be held to include a case “where the parties go before a magistrate or minister, make a marriage contract in some form in his presence, in the belief that he sanctions and assents to it in his official capacity, and cohabit as husband and wife afterwards, believing that they are legally married, though the magistrate understands the matter differently, and does not intend to act officially in the matter.” 110 Mass. 316.

The presence of a person officiating, or at least believed to be officiating, as a justice or minister being (except in the case of Quakers) clearly required, according to a long course of legislative action and of judicial opinion, to constitute a valid marriage in this Commonwealth, it would be superfluous to examine the English decisions, or the cases cited at the argument showing that a different rule prevails in some other parts of the Union. Whether it is wise and expedient so to change the law of Massachusetts as to allow an act, which so deeply affects the relations and rights of the contracting parties and their offspring, to become binding in law by the mere private contract of the parties, without going before any one as a magistrate or minister, is a matter for legislative, and not for judicial consideration.

In the case before us, it appearing from the undisputed facts that, in the ceremony performed by the defendant and the woman with whom he has since cohabited, no third person participated or was understood or expected to participate in any way, and no civil magistrate or minister of the gospel, nor any person believed to be such, was present, and neither party was a Friend, or Quaker, it was rightly ruled in the Superior Court that no lawful or valid marriage between the parties had taken place.

But it does not follow that the conviction was warranted by the evidence before the jury. *Milford v. Worcester*, 7 Mass. 57. Sedgwick, J., in *Mangue v. Mangue*, 1 Mass. 240, 242. To support an indictment against a man for adultery, it is sufficient to prove sexual connection between him and the wife of another man. *Commonwealth v. Elwells*, 2 Met. 190. To support an indictment for bigamy or polygamy, it is sufficient to prove that the defendant, being at the time lawfully married to one person, has married another. *Commonwealth v. Mash*, 7 Met. 472. *Reynolds v. United States*, 98 U.S. 145. But to support this indictment on the Gen. Sts. c. 165, § 6, it is necessary to prove not only that a man and a woman, “not being married to each other,” “cohabited together,” but that they so cohabited “lewdly and lascivi-

ously," — implying an evil intent, which cannot be inferred from the mere fact (such as was proved at the trial) of cohabitation under an honest, though mistaken, belief that the parties were lawfully married to each other. *Commonwealth v. Hunt*, 4 Cush. 49. If there were evidence that the cohabitation was under such circumstances as to create a common scandal, or tend to corrupt the public morals, the case might be different. See *Commonwealth v. Calef*, 10 Mass. 153; *Grisham v. State*, 2 Yerger, 589; *State v. Moore*, 1 Swan, 136.

*Verdict set aside.*

## LEGISLATION UNDER THE COMMONWEALTH.

### CHAPTER 69 OF ACTS OF 1785.

#### AN ACT FOR REGULATING MARRIAGE AND DIVORCE.

SECTION 1. *BE it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That no man or woman shall intermarry within the degrees hereafter named, that is to say:*

No man shall marry his mother, grandmother, daughter, son's daughter, daughter's daughter, step-mother, grandfather's wife, son's wife, son's son's wife, daughter's son's wife, wife's mother, wife's grandmother, wife's daughter, wife's son's daughter, wife's daughter's daughter, sister, brother's daughter, sister's daughter, father's sister, mother's sister.

No woman shall marry her father, grandfather, son, son's son, daughter's son, step-father, grandmother's husband, daughter's husband, son's daughter's husband, daughter's daughter's husband, husband's father, husband's grandfather, husband's son, husband's son's son, husband's daughter's son, brother, brother's son, sister's son, father's brother, mother's brother.

And if any man or woman shall intermarry within the degrees aforesaid, every such marriage shall be deemed, taken and adjudged incestuous, and shall be null and void; and the issue of all such incestuous marriages shall be deemed, taken and adjudged illegitimate, and be subjected to all the legal disabilities of such issue.

SECT. 2. *And be it further enacted by the authority aforesaid, That all marriages, where either of the parties shall have a former wife or husband living at the time of such marriage, shall be absolutely void, and no dower shall be assigned any widow in consequence of such marriage; and the issue thereof shall be deemed, taken and adjudged illegitimate, and be subject to all the legal disabilities of such issue.*



## CHAPTER 3 OF ACTS OF 1786.

## AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That every Justice of the Peace, within the county where he resides, and every stated and ordained minister of the gospel in the town, district, parish or plantation, where he resides, shall be and hereby is authorized and empowered to solemnize marriages between persons that may lawfully enter into that relation, when one or both of the persons to be married, belong to, or are residents in the county where such justice resides, or one or both of them are inhabitants of, or residents in the town, district, parish, or plantation where such minister resides.

SECT. 2. *And be it further enacted by the authority aforesaid,* That when any settled and ordained minister of the gospel is himself to be married, it shall be lawful for any other such minister within the same county, to marry the said minister. And also, when any religious society shall be destitute of a settled and ordained minister of the gospel, in case there shall not be such a minister within the town, district or plantation in which such religious society is, it shall be lawful for any such minister, within the same county, to join any person of such town, district or plantation, in marriage: *Provided* such marriage be solemnized in the town, district or plantation where one of the parties to be married shall reside.

SECT. 3. *And be it further enacted by the authority aforesaid,* That all persons desiring to be joined in marriage shall have such their intentions published at three public religious meetings, on different days, at three days' distance exclusively at least from each other, in the town or district, wherein they respectively dwell, or shall have their intentions of marriage posted up by the clerk of such town or district, by the space of fourteen days, in some public place, within the same town or district, fairly written, and shall also produce to the justice or minister, who shall be desired to marry them, a certificate of such publishment, under the hand of the clerk of such town or district respectively; and also, that the intention of marriage hath been entered with him fourteen days, prior to the date of such certificate; and where a male, under twenty one years, or a female under eighteen years of age, is to be married, the consent of the parent, guardian or other person, whose immediate care and government such party is under, if within the Commonwealth, shall be first had to such marriage. And in case the parties or either of them live in a town, district or place where there shall be no clerk, then publishment shall be made in the town or district next adjoining, in manner aforesaid, and a certificate from the clerk of the same town or district, of such publishment, and of the entry of their intentions of marriage as aforesaid, shall be produced as aforesaid, previous to their marriage. *Provided,* That in regard to any plantation in the counties of Cumberland and Lincoln, where the parties, not under the respective ages aforesaid, shall have been inhabitants for the space of twelve months, and shall live twenty miles' distant from such next adjoining town or district, any justice or ordained minister belonging to this Commonwealth, may join them in marriage without such certificate

SECT. 4. *And be it further enacted by the authority aforesaid,* That if, at any time, the banns of matrimony betwixt any persons shall be forbidden, and the reasons thereof assigned, in writing, by the person so forbidding the same, left with the town or district clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall have been duly inquired into, and determined before two justices of the same county, *quorum unus*: *Provided,* the person forbidding the banns shall, within seven days after filing the reasons as aforesaid, apply unto two justices as aforesaid, and procure their determination thereon; unless the said justices shall certify unto the said clerk, that a further time is necessary for their determination on the reasons filed; in which case the clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the justices shall sooner determine; according to whose determination, the clerk shall govern himself herein; and if the said justices shall determine, that the reasons assigned by the person forbidding the said banns, were not supported by the laws of the Commonwealth, then the person so forbidding shall pay all the cost that may have arisen in consequence of such objection; and the said justices shall make up judgment and issue execution accordingly.

SECT. 5. *And be it further enacted by the authority aforesaid,* That if any person shall deface or pull down any publishment posted up, in writing, as aforesaid, before the expiration of the said fourteen days, he shall forfeit and pay the sum of twenty shillings, to the use of the town; and if unable to pay the said fine, may be set in the stocks for the space of one hour. And if any Justice of the Peace or minister shall, otherwise than is expressly allowed and authorized by this Act, join any persons in marriage, they shall severally forfeit and pay the sum of fifty pounds, two third parts thereof to and for the use of the county wherein the offence may be committed, and the residue to the prosecutor, to be sued for and recovered in the Court of Common Pleas, within the same county, by the treasurer thereof, who is hereby enjoined, upon due information thereof, to prosecute and sue for the said penalty, without delay, or by the parent, guardian or other person under whose immediate care and government either of the parties were at the time of such marriage; and every justice or minister, against whom such recovery shall be had, is hereby forbidden from joining persons in marriage forever after. And in case a person forbid as aforesaid, or any other person whatever, not authorized and empowered to solemnize marriages by this Act, shall join any persons in marriage, and be convicted thereof in the Supreme Judicial Court, upon presentment or indictment, he shall stand one hour in the pillory, and be subjected to pay a fine, at the discretion of the court, to the use of the Commonwealth, not exceeding one hundred pounds, nor less than eighty pounds.

SECT. 6. *And be it further enacted,* That every justice and minister shall make and keep a particular record of all marriages solemnized before them respectively; and in the month of April, yearly, and every year, shall make a return to the clerk of the town, district or plantation in which he lives, certifying the names (both Christian names and surnames) of all the persons who have been by them respectively joined together in marriage within the year then last past, if any such have been by them so joined together.

[And if it shall so happen, that any one or more of the said justices or ministers shall not have joined together in marriage any persons during the course of the year then last past, it shall be the duty of such justice or minister also to certify to the said town-clerk, in writing, under his hand, that he has not joined any persons in marriage within the course of the said year:] *Repealed 1795, ch. 7.*

And if any justice or minister shall neglect to make such return, within the month of April, annually, the clerk of the town, district or plantation, where such delinquent justice or minister lives, shall, without



delay, certify such neglect to the clerk of the Court of General Sessions of the Peace of the same county, who shall lay the same before the said court at their next session; and the person so neglecting shall be cited to appear before the said court, to answer for such neglect; and if no sufficient reason shall be assigned therefor, he shall be considered and adjudged disqualified for joining persons in marriage for a term of time, not exceeding ten years, at the discretion of the justices of the said court. And every town and district clerk shall duly and seasonably record all marriages, so certified to him, as aforesaid:

[And shall also return a list or copy thereof to the clerk of the Court of General Sessions of the Peace of the same county, some time in the month of May, yearly and every year, to be there recorded, upon penalty of forfeiting twenty shillings for each neglect: And it shall be the duty of each clerk of the sessions to prosecute for every such neglect, in the county to which he belongs. And every clerk of the sessions shall record all such returns of marriages at large in a book to be kept for that purpose, and no other, under the same penalty for each neglect.] *Repealed 1795, ch. 41, § 1.*

SECT. 7. *And be it further enacted*, That no person by this Act authorized to marry, shall join in marriage any white person with any negro, indian or mulatto, on penalty of the sum of fifty pounds, two third parts thereof to the use of the county wherein such offence shall be committed, and the residue to the prosecutor, to be recovered by the treasurer of the same county, in manner as aforesaid; and all such marriages shall be absolutely null and void.

SECT. 8. *And be it further enacted by the authority aforesaid*, That any marriages which have been or hereafter may be had and solemnized, among the people called Quakers, or Friends, in the manner and form used and practised in their societies, shall be good and valid in law, anything in this Act to the contrary notwithstanding: And the clerk, or keeper of the records of the meeting wherein such marriage shall be had and solemnized, shall once a year make a certificate, under his hand, of all marriages had and solemnized in the society, or meeting, to which he belongs, and shall deliver the same to the clerk of the Court of General Sessions of the Peace of the county wherein the marriages have been had and solemnized, under the penalty of twenty shillings for each neglect. All fines, not particularly appropriated, shall be to the use of the prosecutor. And all former laws relating to the solemnization of marriages, are hereby repealed.

This Act to be in force from and after the last day of December, one thousand seven hundred and eighty-six, and not sooner. [June 22, 1786.]

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## CHAPTER 7 OF ACTS OF 1795.

AN ACT REPEALING A CERTAIN CLAUSE OF AN ACT, ENTITLED, "AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES."

WHEREAS in and by the Act, entitled, as aforesaid, among other things, the following clause is enacted, viz. "And if it shall so happen, that any one or more of the said justices or ministers shall not have joined together in marriage any person during the course of the year then last past, it shall be the duty of such justice or minister also to certify to the said town-clerk, in writing, under his hand, that he has not joined any persons in marriage within the course of the said year;" and a compliance with the said clause is found inconvenient:

*Be it therefore enacted by the Senate and House of Representatives in General Court Assembled, and by the authority of the same*, That the before recited clause be and it is hereby repealed. [June 15, 1795.]

CHAPTER 41 OF ACTS OF 1795.

FEES FOR MARRIAGES.

To the town-clerk for publishing the banns of matrimony, recording the same, giving a certificate of the publishment, and recording the marriage upon receiving the justice's or minister's certificate thereof, fifty cents, to be paid by the man published, on receiving a certificate of the publishment. And the town-clerk shall not in future be holden to return certificates of marriages to the clerks of the Courts of General Sessions of the Peace, nor clerks last mentioned to record the same. To every minister or Justice of the Peace, who shall lawfully solemnize a marriage, and certify the same, one dollar and twenty-five cents. To the town-clerk for recording births and deaths, eight cents each. For a certificate of a birth or death, ten cents. For a subpoena for one or more witnesses, ten cents.

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CHAPTER 69 OF ACTS OF 1795.

AN ACT FOR RÊCORDING BIRTHS AND DEATHS BY THE CLERKS OF TOWNS AND DISTRICTS.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That it shall be the duty of every town-clerk and every district-clerk, within this Commonwealth, to record all births and deaths which shall happen within his town or district and come to his knowledge, together with the time of such birth or death, and the names of his or her parents, if known, for the fees allowed, by law, to be paid by his town or district.

SECT. 2. *And be it further enacted,* That it shall be the duty of parents to give notice to the clerk of the town or district in which they dwell, of all the births and deaths of their children; and it shall be the duty of every householder to give notice of every birth and death which may happen in his house; and of the eldest person next of kin to give such notice of the death of his kindred; and it shall be the duty of the master or keeper of any alms-house, work-house or prison, and of the master or commander of any ship or vessel, to give notice of every birth and death which may happen in the house or vessel under his care or charge, to the clerk of the town or district in which such event shall happen: And in case any person, whose duty it shall be, by virtue of this Act, to give notice as aforesaid, shall neglect to perform the same for the space of six months after the birth or death shall happen, the person so neglecting shall pay a fine of one dollar, to be recovered, with costs of suit, on complaint before any Justice of the Peace for the same county, to the use of any inhabitant of the same town who shall prosecute for the same; from which judgment there shall be no appeal.

SECT. 3. *And be it further enacted,* That this Act shall be in force on and after the first day of September next; and that an Act passed *Anno Domini* one thousand six hundred and ninety-two, for registering births and deaths, shall be and hereby is repealed, on and after that day. [Feb. 26, 1796.]



## CHAPTER 61 OF ACTS OF 1817.

## AN ACT EXPLANATORY OF AN ACT, ENTITLED, "AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES."

*BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That any marriage which has been, or which shall hereafter be solemnized by any minister or Justice of the Peace, agreeably to the provisions of the Act, entitled, "An Act for the orderly solemnization of Marriages," in any plantation, which at the time of passing said Act was included within the counties of Cumberland or Lincoln, shall be deemed and taken to be legal, to all intents and purposes, as if the said counties, or either of them, had not been divided. And every Justice of the Peace, or minister, who shall hereafter solemnize any such marriage, shall transmit a certificate thereof to the clerk of the Circuit Court of Common Pleas for the county in which said plantation is situated, to be recorded by said clerk, in a book to be by him kept for that purpose. [Jan. 27, 1818.]

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## CHAPTER 141 OF ACTS OF 1817.

## AN ACT IN EXPLANATION OF AN ACT, ENTITLED, "AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES."

*BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That all marriages (between persons who may or might lawfully enter into that relation) which have been or may hereafter be solemnized by any stated ordained minister of the gospel, in the town, parish, district, or plantation, within or over which such minister, at the time, was, or may be settled, and where one of the parties resided, or shall reside, shall be, and be considered valid in law, notwithstanding such minister, at the time, shall reside, or may have resided without the limits of the town, district, parish or plantation, within or over which he is, or was so settled. And it shall be sufficient that the certificate of any marriage, so solemnized, shall be lodged with the clerk of the town, district or plantation, within or over which such minister is so settled. [Feb. 20, 1818.]

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## CHAPTER 55 OF ACTS OF 1820.

## AN ACT IN FURTHER ADDITION TO THE ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That every stated ordained minister of the gospel shall be, and hereby is authorized and empowered to solemnize marriages between persons that may lawfully enter into that relation, when one or both of the persons to be married belong to the parish or congregation of such minister, although such person or persons shall reside without the limits of the town, parish, or district in which such minister may be settled; and such marriages may be solemnized either within the town, parish, or district wherein such minister resides, or wherein such person or persons may reside.

SECT. 2. *Be it further enacted,* That whenever any persons, who may lawfully enter into the marriage relation, shall belong to, or be resident in a town or district, in which there shall be no stated ordained minister of the gospel, of the sect or denomination to which such persons, or

either of them belong, it shall be lawful for any settled, ordained minister, of the sect or denomination to which such persons, or either of them belong, residing in any other town or district within this Commonwealth, to solemnize marriage between such persons, within the town or district where they, or either of them reside; the certificate of which marriage shall be filed with the clerk of the town or district where such marriage shall be solemnized; and the duties of ministers and town clerks, in relation to certificates of marriage, solemnized under the provisions of this Act, and the penalties for the neglect thereof, shall be the same as are provided in the Act, entitled "An Act for the orderly solemnization of marriages." [Feb. 12, 1821.]

## CHAPTER 177 OF ACTS OF 1834.

### AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That every justice of the peace within his jurisdiction, and every minister of the Gospel within the Commonwealth, who has been ordained according to the usage of his denomination, and who is resident therein, be, and they hereby are authorized and empowered to solemnize marriages between persons who may lawfully enter into that relation, when either of the persons to be married belongs to, or is resident within the jurisdiction of said justice or minister; but all such marriages shall be solemnized in the city, town, or district in which the person solemnizing the same may reside, or within the city, town, or district in which one or both of the persons to be married may reside.

SECT. 2. *BE it further enacted,* That all persons desiring to be joined in marriage, shall have their intentions of marriage published at three public religious meetings, on different days, at three days' distance at least from each other exclusively, in the city, town, or district wherein they respectively dwell, or shall have such their intentions of marriage posted up, by the clerk of such city, town or district wherein they respectively dwell, for the space of fourteen days in some public place, within the same city, town, or district, fairly written, and shall also produce to the justice or minister, who may be desired to marry them, a certificate of such publishment under the hand of the clerk of such city, town, or district respectively, and also that the intentions of marriage have been entered with him fourteen days prior to the date of such certificate; and when a male under twenty-one years, or a female under eighteen years of age, is to be married, the consent of the parent, guardian or other person under whose immediate care or government such party is, if within the Commonwealth, shall be first had to such marriage. And in case the parties or either of them, live in a town, district, or other place where there shall be no clerk, then publishment shall be made in manner aforesaid, in a city, town, or district next adjoining, and the certificate from the clerk of such adjoining city, town, or district, of such publishment, and of the entry of their intentions of marriage as aforesaid, previous to their marriage.

SECT. 3. *BE it further enacted,* That if, at any times, the banns of matrimony between any persons shall be forbidden, and the reasons thereof, assigned in writing by the person forbidding the same, be left with the city, town, or district clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall have been duly inquired into and determined before two justices of the same county, quorum unus: *provided,* the person forbidding the banns, shall, within seven days after filing the reasons as aforesaid, apply unto two justices as aforesaid, and procure their determination thereon, unless the said justices shall certify unto the said clerk, that a further time is necessary for their determi-



nation on the reasons filed ; in which case the clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the justices shall sooner determine, according to whose determination the clerk shall govern himself herein ; and if the said justices shall determine that the reasons assigned by the person forbidding the said banns were not supported by the laws of the Commonwealth, then the person so forbidding shall pay all the cost that may have arisen in consequence of such objection, and the said justices shall make up judgment, and issue execution accordingly.

SECT. 4. *BE it further enacted*, That if any person shall deface or take down any publishment in writing, posted up as aforesaid, before the expiration of the fourteen days, he shall, upon conviction thereof, forfeit and pay a sum not less than two, or more than twenty dollars, to the use of the person who shall prosecute therefor. And if any justice of the peace, or minister, shall, otherwise than is expressly allowed and authorized by this act, join any persons in marriage, they shall, upon conviction thereof, severally forfeit and pay a sum not less than fifty, nor more than one hundred dollars, one moiety thereof to the use of the county wherein the offence may be committed, and the other moiety to the use of the person who shall prosecute therefor ; and in case any person whatever, not authorized and empowered to solemnize marriages by this act, shall join any persons in marriage, and be convicted thereof in any court of competent jurisdiction, upon presentment or indictment, he shall be imprisoned in the common jail, or confined to hard labor, for a term not exceeding six months, or pay a fine of not less than fifty, nor more than two hundred dollars, to the use of the Commonwealth, at the discretion of said court.

SECT. 5. *BE it further enacted*, That every justice and minister shall make and keep a particular record of all the marriages solemnized before them respectively ; and, in the month of April annually, shall make a return to the clerk of the city, town, or district in which he resides, of a certificate containing the Christian and surnames, and places of residence, of all the persons joined in marriage, by them respectively, within the year then last past, and also the time when, and the name of the city, town, or district, in which such marriages were respectively solemnized ; and when neither of the persons married belongs to, or is resident in the city, town, or district, in which such justice or minister resides, then such justice or minister shall also make a like return of a certificate to the clerk of the city, town, or district in which one or both of the persons married may reside, within thirty days from the solemnization of the same. And any justice or minister who shall neglect to make such returns, shall, upon conviction thereof, before any court of competent jurisdiction, in the county in which he resides, forfeit and pay for each neglect a sum of not less than twenty nor more than one hundred dollars, at the discretion of said court, one moiety thereof to the use of said county, and the other moiety to the use of the person who shall prosecute for the same ; and every city, town, or district clerk shall duly and reasonably record all marriages so certified to him as aforesaid.

SECT. 6. *BE it further enacted*, That all marriages which have been or may be solemnized among the people called quakers or friends, in the manner and form used and practised in their societies, shall be good and valid in law, anything in this act to the contrary notwithstanding. And the clerk or keeper of the records of the meeting wherein such marriages shall be solemnized, shall, in the month of April, annually, make and deliver to the clerk of the city, town, or district in which such society usually meet and worship, a certificate of all marriages solemnized therein, during the year then last past, as in the fifth section of this act is provided, under the penalty of not less than twenty nor more than one hundred dollars for each neglect, to be recovered in the manner and to the uses as in said fifth section is provided.

SECT. 7. *BE it further enacted*, That all marriages between persons who might lawfully enter into that relation, heretofore solemnized by any justice or minister, be and they hereby are confirmed and made valid in law, although such justice or minister may have exceeded his authority or jurisdiction.

SECT. 8. *BE it further enacted*, That “an act for the orderly solemnization of marriages” (except the seventh section thereof,) passed June twenty-second, in the year of our Lord one thousand seven hundred and eighty-six; also “an act repealing a certain clause of an act for the orderly solemnization of marriages,” passed June fifteenth, in the year of our Lord one thousand seven hundred and ninety-five; also, “an act explanatory of an act for the orderly solemnization of marriages,” passed January twenty-seventh, in the year of our Lord one thousand eight hundred and eighteen; also an act in explanation of an act for the orderly solemnization of marriages, passed February twentieth, in the year of our Lord one thousand eight hundred and eighteen, and also “an act in further addition to the act for the orderly solemnization of marriages,” passed February twelfth, in the year of our Lord one thousand eight hundred and twenty-one, be, and they are hereby repealed: *provided, however*, that all marriages confirmed by, or solemnized in pursuance of the provisions of these acts, be ratified and confirmed.

SECT. 9. *BE it further enacted*, That no minister who has unintentionally violated the laws now in force, for the solemnization of marriages, shall be subjected to any penalty or punished for that cause.

SECT. 10. *BE it further enacted*, That the provisions of this act shall go into operation on the first day of May next. [Approved by the Governor, April 1, 1834.]

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## CHAPTER 15 OF THE REVISED STATUTES OF 1836.

### RECORD OF BIRTHS AND DEATHS. — NOTICE OF BIRTHS AND DEATHS.

SECT. 46. The town clerk shall keep a record of the births and deaths of all persons within his town, and coming to his knowledge; and he shall specify in such record the day of each birth and death, and the names of the parents of such persons, if known.

SECT. 47. Parents shall give notice to the clerk of their town of all the births and deaths of their children; and every householder shall give the like notice of every birth and death happening in his house; and the eldest person next of kin shall give such notice of the death of his kindred; and the keeper of any almshouse, workhouse, house of correction, prison or hospital, and the master or other commanding officer of any ship, shall give the like notice of every birth and death happening among the persons under his charge; and every person neglecting to give such notice, for the space of six months, after the birth or death shall have happened, shall forfeit to the use of the town a sum not exceeding five dollars.

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## CHAPTER 75 OF THE REVISED STATUTES OF 1836.

### FOR REGULATING MARRIAGES.

SECTION 1. No man shall marry his mother, grandmother, daughter, granddaughter, step-mother, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, sister, brother's daughter, sister's daughter, father's sister, or mother's sister.



SECT. 2. No woman shall marry her father, grandfather, son, grandson, step-father, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother, brother's son, sister's son, father's brother, or mother's brother.

SECT. 3. In all the cases, mentioned in the two preceding sections, in which the relationship is founded on a marriage, the prohibition shall continue in full force, notwithstanding the dissolution of such marriage by death, or by a divorce, unless the divorce be for a cause, which shows the marriage to have been originally unlawful or void.

SECT. 4. All marriages, contracted whilst either of the parties has a former wife or husband living, shall be void, unless the former marriage shall have been dissolved for some cause other than the adultery of the person contracting such second marriage.

SECT. 5. No white person shall intermarry with a negro, indian or mulatto; and no insane person or idiot shall be capable of contracting marriage.

SECT. 6. When any persons, resident in this state, shall undertake to contract a marriage, contrary to the preceding provisions of this chapter, and shall, in order to evade those provisions, and with an intention of returning to reside in this state, go into another state or country, and there have their marriage solemnized, and shall afterwards return and reside here, such marriage shall be deemed void in this state.

SECT. 7. All persons, intending to be joined in marriage, shall cause notice of their intention to be entered, fourteen days at least before their marriage, in the office of the clerk of the town in which they may respectively dwell (if within this state); and if there be no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town.

SECT. 8. The intention shall be published by the clerk, with whom the entry is made, either by posting up a written notice thereof, in some public place in the town of which he is the clerk, fourteen days at least before the marriage, or by making a public proclamation thereof, at three public religious meetings in the town, on different days; the said meetings to be not less than three days distant from each other, exclusive of the days of the publication.

SECT. 9. The clerk shall deliver to the parties a certificate, under his hand, specifying the time when notice of the intention of marriage was entered with him, and the time of the publication thereof; which certificate shall be delivered to the magistrate or minister, in whose presence the marriage is to be contracted, before he shall proceed to solemnize the same.

SECT. 10. After the intention of marriage is entered with the clerk, if any person shall forbid the banns, and shall assign his reasons therefor in writing, and leave the same with the clerk, the certificate shall not be issued, until the matter shall have been duly inquired into and determined, in the manner hereinafter mentioned; provided the person forbidding the banns shall apply to two justices of the peace and of the quorum, of the same county, and shall, within seven days after the filing of his reasons, procure their decision thereon, or produce to the clerk their certificate that a further time is necessary for the consideration thereof; in which case, the clerk shall withhold his certificate, until the expiration of such further time, unless the justices shall sooner make known their decision.

SECT. 11. The two justices, so applied to, shall proceed forthwith to give notice thereof to the persons who propose to be married, and after a full hearing of the parties, or of the person objecting to the marriage, if the others do not appear, the justices shall decide on the truth and sufficiency of the reasons assigned for forbidding the banns,

and shall certify their decision thereon to the clerk, with whom the intention of marriage was entered.

SECT. 12. If the said two justices shall certify that the objections to the marriage are true and sufficient, the clerk shall not issue any certificate of the publication of the banns; but if they shall certify that the objections are not proved, or are not sufficient, or if they shall not agree in a determination thereupon, the clerk shall forthwith issue his certificate, in the same manner as if no objection had been made thereto.

SECT. 13. If the said justices shall certify that the objections to the marriage are true and sufficient, the persons, who propose to be married, or either of them, may appeal from such decision to the court of common pleas, or the supreme judicial court, next to be held for the same county, and the determination of the court thereon shall be final in the case; and the clerk of the town shall issue, or withhold, his certificate of the publication of the banns, according to such final determination.

SECT. 14. If the objections, so made to any marriage, shall not be proved, and adjudged to be sufficient, the person making the same shall pay all the costs, that shall have been incurred on account thereof, to be taxed by the justices or the court, as the case may be, and execution therefor shall be issued accordingly.

SECT. 15. When a male, under the age of twenty-one years, or a female, under the age of eighteen years, is to be married, the magistrate or minister shall not proceed to solemnize the marriage, without the consent of the parent or guardian, having the custody of such minor, if there be any in the state competent to act.

SECT. 16. Marriages may be solemnized by any justice of the peace, in the county for which he is appointed, when either of the parties resides in the same county; and they may be solemnized throughout the state by any minister of the gospel, who has been ordained according to the usage of his denomination, and who resides within the state, and continues to preach the gospel and to perform the other functions of his office; but all such marriages shall be solemnized in the town, in which the person solemnizing them may reside, or in which one or both of the persons to be married may reside.

SECT. 17. Every justice and minister shall keep a record of all marriages solemnized before him, and in the month of April, annually, shall make a return, to the clerk of the town in which he resides, of a certificate, containing the christian and surnames, and places of residence, of all the persons who have been by him joined in marriage, within the year then last past, and also the time when, and the name of the town in which, such marriages were respectively solemnized; and when neither of the married persons belongs to or is resident in the town in which the justice or minister resides, then such justice or minister shall, within thirty days after such marriage, also return a like certificate to the clerk of the town in which one or both of the married persons may reside; and all marriages, so certified to the clerk, shall be forthwith recorded by him in a book to be kept for that purpose.

SECT. 18. Every justice of the peace and minister, who shall neglect to make such returns, shall, upon conviction thereof, forfeit for each neglect a sum, not less than twenty, nor more than one hundred dollars; one moiety thereof to the use of the county in which he resides, and the other moiety to the use of the person who shall prosecute therefor.

SECT. 19. If any justice of the peace or minister shall join any persons in marriage, contrary to the provisions of this chapter, he knowing that the marriage is not duly authorized, he shall, upon conviction thereof, forfeit a sum not less than fifty, nor more than one



hundred dollars, one moiety thereof to the use of the county where the offence is committed, and the other moiety to the use of the person who shall prosecute therefor.

SECT. 20. If any person shall undertake to join others in marriage, knowing that he is not lawfully authorized so to do, and shall be thereof convicted, upon indictment in any court of competent jurisdiction, he shall be imprisoned in the common jail, or confined to hard labor, for a term not exceeding six months, or shall pay a fine, not less than fifty, and not more than two hundred dollars.

SECT. 21. If any person shall wilfully deface or take down any written notice of the intention of marriage, posted up as before prescribed, within fourteen days after it is so posted up, he shall, upon conviction thereof, forfeit a sum not less than two, or more than twenty dollars, to the use of the person who shall prosecute therefor.

SECT. 22. The preceding regulations, so far as they relate to the manner of solemnizing marriages, shall not effect [*affect*] marriages among the people called friends or quakers, but such marriages may be solemnized, in the manner heretofore used and practised in their societies.

SECT. 23. The clerk or keeper of the records of the meeting, wherein any marriages among the said friends or quakers shall be solemnized, shall, in the month of April, annually, make and deliver to the clerk of the town in which such society usually meet and worship, a certificate, like that before prescribed to be returned by justices and ministers, of all marriages solemnized in the said meeting, within the year then last past, under the penalty of not less than twenty, nor more than one hundred dollars, for each neglect; which penalty shall be recovered in the manner, and to the uses, provided in the case of a like neglect by a justice or minister.

SECT. 24. No marriage, solemnized before any person professing to be a justice of the peace, or a minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, on account of any want of jurisdiction or authority in such supposed justice or minister, or on account of any omission or informality in the manner of entering the intention of marriage or in the publication of the banns; provided, that the marriage be in other respects lawful, and be consummated with a full belief, on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.

SECT. 25. The record of a marriage, made and kept as before prescribed, by a justice of the peace or minister, or by the clerk of any town, or a copy of any such record duly certified, shall be received, in all courts and places, as presumptive evidence of the fact of such marriage.

[NOTE.— By Chapter 146 it was provided that this revision was to take effect on and after the last day of April, 1836.]

CHAPTER 122 OF THE REVISED STATUTES OF 1836.

FEEs FOR MARRIAGES.

SECT. 11. To the town clerk, for publishing the banns of matrimony, recording the same, giving a certificate thereof, and recording the marriage upon receiving the minister's or justice's certificate thereof, fifty cents, to be paid on delivering the certificate of publishing the banns:

To every minister or justice of the peace, who shall lawfully solemnize a marriage, and certify the same, one dollar and twenty-five cents.

TOWN CLERK'S FEES.

SECT. 12. For recording births and deaths, eight cents each:

For a certificate of a birth or death, ten cents:

For copies of town records, and other documents, furnished to any person at his request, if containing less than one page, ten cents, and if containing more, at the rate of twelve cents a page.

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CHAPTER 84 OF ACTS OF 1840.

AN ACT RELATING TO THE EVIDENCE OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

Whenever, on hearing of any application for divorce, the fact of marriage is required or offered to be proved, evidence of admission of said fact by the party against whom the process is instituted, or of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence, from which said fact may be inferred, shall be received as competent evidence for consideration, whether the marriage to be proved was contracted in this Commonwealth or elsewhere.

[Approved by the Governor, March 23, 1840.]

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CHAPTER 20 OF ACTS OF 1841.

AN ACT IN ADDITION TO AN ACT RELATING TO THE EVIDENCE OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

The provisions of an act relating to the evidence of marriage, passed on the twenty-third day of March, in the year one thousand eight hundred and forty, are hereby extended to all cases where it shall become necessary to prove the fact of marriage, in any hearing before any court in this Commonwealth.

[Approved by the Governor, Feb. 16, 1841.]



## CHAPTER 95 OF ACTS OF 1842.

AN ACT RELATING TO THE REGISTRY AND RETURNS OF BIRTHS,  
MARRIAGES, AND DEATHS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. The clerks of the several towns and cities in the Commonwealth shall, annually, in the month of May, transmit to the Secretary of the Commonwealth a certified copy of their record of the births, marriages, and deaths of all persons within their respective towns and cities, which may come to their knowledge; shall state the number of births and marriages, and the number of deaths, with the name, sex, age, (and if an adult male, the occupation,) and the names of the diseases of which all persons have died, or are supposed to have died, together with the cause or causes of the death of all such deceased persons, so far as they may be able to obtain a knowledge of the same from physicans or others; and any clerk who shall neglect to make such return, shall be liable to a penalty of ten dollars, to be recovered for the use of any town or city where such neglect shall be proved to have existed.

SECT. 2. The Secretary of the Commonwealth shall prepare and furnish to the clerks of the several towns and cities in this Commonwealth, blank forms of returns, as hereinbefore specified, and shall accompany the same with such instructions and explanations as may be necessary and useful; and he shall receive said returns, and prepare therefrom such tabular results as will render them of practical utility, and shall make report thereof annually to the legislature, and generally shall do whatever may be required to carry into effect the objects of this act, and of the several provisions of the Revised Statutes not inconsistent with this act.

[Approved by the Governor, March 3, 1842.]

## CHAPTER 5 OF ACTS OF 1843.

AN ACT RELATING TO MARRIAGES BETWEEN INDIVIDUALS OF CERTAIN  
RACES.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

So much of the fifth section of the seventy-fifth chapter and of the first section of the seventy-sixth chapter of the Revised Statutes, as relates to marriages between white persons and negroes, indians and mulattoes, is hereby repealed.

[Approved by the Governor, Feb. 25, 1843.]

CHAPTER 159 OF ACTS OF 1844.

AN ACT RELATING TO THE REGISTRY AND RETURNS OF BIRTHS,  
MARRIAGES, AND DEATHS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. The clerks of the several cities and towns in this Commonwealth shall, annually, in the month of June, transmit to the secretary of the Commonwealth a certified copy of their record of births, marriages, and deaths, which have occurred within their respective cities and towns during the year next preceding the first day of said month.

The births shall be numbered and recorded in the order in which they are received by the clerk. The record of births shall state in separate columns the date of the birth, the place of birth, the name of the child, (if it have any,) the sex of the child, name and surname of one or both of the parents, occupation of the father, residence of the parents, and the time when the record was made.

The marriages shall be numbered and recorded in the order in which they are received by the clerk. The record of marriages shall state in separate columns, the date of the marriage, the place of the marriage, the name, residence, and official station of the person by whom married, the names and surnames of the parties, the residence of each, the age of each, the condition of each, (whether single or widowed,) the occupation, names of the parents, and the time when the record was made.

The deaths shall be numbered and recorded in the order in which they are received by the clerk. The record of deaths shall state in separate columns the date of the death, the name and surname of the deceased, the sex, condition, (whether single or married,) age, occupation, place of death, place of birth, names of the parents, disease or causes of death, and the time when the record was made.

SECT. 2. The school committee of each city or town shall, annually, in the month of May, ascertain from actual inquiry or otherwise, all the births which have happened within such city or town, during the year next preceding the first day of said May, together with the facts concerning births required by the first section of this act, and shall make an accurate return thereof to the clerk of such city or town, on or before the last day of said May; and the said school committee, or other person authorized by them to make such returns, shall be entitled to receive from the treasury of such city or town, five cents for each and every birth so returned.

SECT. 3. Every justice, minister, and clerk, or keeper of the records of the meeting wherein any marriages among the Friends or Quakers shall be solemnized, shall make a record of each marriage solemnized before him, together with all the facts relating to marriages required by the first section of this act; and each such justice, minister, clerk, or keeper shall, between the first and tenth days of each month, return a copy of the record for the month next preceding, to the clerk of the city or town in which the marriage was solemnized; and every person as aforesaid, who shall neglect to make the returns required by this section, shall be liable to the penalty provided in the eighteenth section of the seventy-fifth chapter of the Revised Statutes.

SECT. 4. Each sexton or other person, having the charge of any burial ground in this Commonwealth, shall, on or before the tenth day of each month, make returns of all the facts required by the first section of this act, connected with the death of any person whose burial he may have superintended during the month next preceding, to the clerk of



the city or town in which such deceased person resided at the time of his death. And such sexton, or other person, shall be entitled to receive from the treasury of the city or town to which the return is made, five cents for the return of each death made agreeably to the provisions of this act.

SECT. 5. The clerk of each city or town shall be entitled to receive from the treasury of such city or town, eight cents for the record of each birth and death: *provided* such clerk shall comply with this act in all respects.

SECT. 6. It shall be the duty of the clerks of the several cities and towns, to make such distribution of blank forms of returns as shall be designated by the secretary of the Commonwealth.

SECT. 7. The secretary of the Commonwealth shall prepare and furnish to the clerks of the several cities and towns in this Commonwealth, blank books of suitable quality and size, to be used as books of record, according to the provisions of this act, and also blank forms of returns, as herein before specified, and shall accompany the same with such instructions and explanations as may be necessary and useful; and he shall receive said returns, and prepare therefrom such tabular results, as will render them of practical utility, and shall make report thereof annually to the legislature, and generally shall do whatever may be required to carry into effect the provisions of this act.

SECT. 8. Any clerk who shall neglect to comply with the requirements of this act, shall be liable to a penalty of ten dollars, to be recovered for the use of any city or town where such neglect shall be proved to have existed.

SECT. 9. An act entitled "an act relating to the registry of births, marriages, and deaths," passed on the third day of March, in the year one thousand eight hundred and forty-two, is hereby repealed.

SECT. 10. This act shall take effect from and after its passage.  
[Approved by the Governor, March 16, 1844.]

## CHAPTER 222 OF ACTS OF 1845.

### AN ACT CONCERNING MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

The validity of any marriage in consequence of the incapacity of either of the parties thereto, to contract the same by reason of insanity or idiocy, shall not be called in question upon the trial of any collateral issue, before any of the courts of this Commonwealth, — but only in a process duly instituted, for the purpose of determining the validity thereof, during the life-time of both the parties thereto.

[Approved by the Governor, March 25, 1845.]

## CHAPTER 202 OF ACTS OF 1849.<sup>1</sup>

### AN ACT RELATING TO THE REGISTRATION OF BIRTHS, MARRIAGES, AND DEATHS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Town and city clerks are hereby authorized and required to obtain, record, and index the information concerning births, mar-

<sup>1</sup> Chapter 197 of Acts of 1846 relates to "Marriage and Divorce" but does not refer to the recording of marriages, nor the issuing of marriage licenses. — W. H. W.

riages, and deaths, now required by law. Towns and cities, containing more than ten thousand inhabitants, may choose a person, other than the town or city clerk, to be town or city registrar, to perform this duty instead of the town or city clerk; and said registrar shall take an oath faithfully to perform the duties of the office.

SECT. 2. The fees of the clerk and registrar, for obtaining, recording, and indexing the information required by this act, shall be as follows: For each birth, twenty cents; for each intention of marriage, including the certificate to the parties, fifty cents; for each marriage solemnized, ten cents; for each death, five cents; and the undertaker shall be allowed ten cents for information concerning each death which he returns to the clerk or registrar; said fees for births, deaths, and marriages solemnized, shall be paid by the town; and for intentions of marriage, by the parties having such intentions; *provided, however*, that the aggregate compensation, allowed to any clerk or registrar, may be limited by any town or city containing over ten thousand inhabitants, but, in no case, so as to prevent the full execution of this act.

SECT. 3. Any undertaker, or other person, having the superintendence of the burial of any deceased person, who shall neglect or refuse to obtain and return the information required by this act, concerning each person deceased, whose burial shall come under his superintendence, shall be liable to a penalty not exceeding twenty dollars for each neglect, and, if an undertaker, to be deprived of his office. And every clerk or registrar, who wilfully neglects or refuses to perform the duties herein prescribed, shall be liable to a penalty of not less than twenty, nor more than one hundred dollars, for each neglect or refusal. All penalties and forfeitures, under this act, may be recovered by any person who shall sue for the same, one-half thereof to the use of said complainant, and the other half to the use of the town or city in which the forfeiture shall have been incurred.

SECT. 4. The returns required to be made on the first day of February, in the year one thousand eight hundred and fifty, shall include the births, deaths, and marriages, from the first day of May, in the year one thousand eight hundred and forty-eight, to said day of return.

SECT. 5. Copies of records, in the several towns and cities, of the births, marriages, and deaths, which occurred during the next preceding year, ending December thirty-first, shall be returned to the Secretary of State, annually, on or before the first day of February. The blank forms of said returns shall be printed on paper of uniform size; and those for each year, when filled out and returned to the office of the Secretary of State, shall be bound together, in one or more volumes, and shall be furnished with an index. Blank books for indexes to the town registrars, [*sic*] shall be prepared by the Secretary of State, and furnished to the several towns and cities at the expense of the Commonwealth.

SECT. 6. All parts of acts inconsistent with the provisions of this act are hereby repealed.

[Approved by the Governor, May 2, 1849.]

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## CHAPTER 121 OF ACTS OF 1850.

### AN ACT RELATING TO BANNS OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. All persons intending to be joined in marriage shall cause notice of their intention to be entered before their marriage, in the office of the clerk, registrar, or other officer appointed for such pur-



pose, of the city or town in which they may respectively dwell, (if within the State;) and if there be no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town.

SECT. 2. The clerk shall deliver to the parties a certificate under his hand, specifying the time when notice of the intention of marriage was entered with him, which certificate shall be delivered to the minister or magistrate, in whose presence the marriage is to be contracted, before he shall proceed to solemnize the same.

SECT. 3. Whenever parties living in this Commonwealth shall go out of it for the purpose of having a marriage solemnized between them in another state, and a marriage shall be so solemnized, and they shall return to dwell here, they are hereby required to file a certificate or declaration of their marriage, including the facts concerning marriages now required by law, with the clerk or registrar of the town or city where either of them lived at the time, within seven days after their return, under a penalty of ten dollars, to be recovered in the manner and to the uses specified in the third section of the "act relating to the registration of births, marriages, and deaths," passed on the second day of May, in the year eighteen hundred and forty-nine.

SECT. 4. The fee of the clerk or registrar, for making the record of such marriage, shall be fifty cents, to be paid by the said parties.

SECT. 5. So much of the seventy-fifth chapter of the Revised Statutes as is inconsistent with this act, is hereby repealed; *provided, nevertheless*, that nothing herein contained shall be so construed as to modify or alter the provisions of the twenty-second section of the said seventy-fifth chapter, which relates to marriages among the people called Friends or Quakers, but the same shall remain in full force.

[Approved by the Governor, March 28, 1850.]

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## CHAPTER 335 OF ACTS OF 1853.

### AN ACT IN ADDITION TO AN ACT RELATING TO BANNS OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. No clerk or registrar of any city or town shall issue any certificate of intention of marriage to any male person under the age of twenty-one years, or to any female person under the age of eighteen years, except it be upon the application of the parent, master, or guardian of such person, or with their consent in writing expressed, under a penalty not exceeding one hundred dollars, to be recovered by indictment, to the use of the commonwealth, in any court proper to try the same: *provided*, that if there be no parent, master, or guardian, in the state, competent to act, a certificate may be issued without the application or written consent aforesaid.

SECT. 2. The clerk or registrar of every city or town may require of any person who shall apply for a certificate of intention of marriage, an affidavit, sworn to before some justice of the peace for the county where such application is made, setting forth his or her age, and for the purposes of this act, such affidavit shall be proof of the age of the person to whom such a certificate shall be given.

[Approved by the Governor, May 12, 1853.]

CHAPTER 366 OF ACTS OF 1855.

AN ACT RELATING TO THE REGISTRATION OF BIRTHS, MARRIAGES,  
AND DEATHS, IN THE STATE ALMSHOUSES.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

The superintendents of the State almshouses located at Monson, Tewksbury, and Bridgewater, are hereby authorized and required to make record of all the births and deaths which occur in the institutions under their care, and make returns of the same to the secretary of State, annually, as all town and city clerks are required to do by the act to which this is an act in addition ; and the town clerks of Monson, Tewksbury, and Bridgewater are hereby exempted from all duties herein required of the superintendents of the above named institutions.

[Approved by the Governor, May 17, 1855.]

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CHAPTER 34 OF ACTS OF 1857.

AN ACT IN ADDITION TO AN ACT RELATING TO BANNS OF MARRIAGE.

*Be it enacted, etc., as follows :*

If any person, applying to any clerk or registrar of any city or town for a certificate of intention of marriage, shall wilfully practise any deception, by making any false statement in relation to the age or residence of either of the parties intending marriage, or in relation to the parent, master, or guardian of either of the said parties, such person shall be subject to a penalty of not more than two hundred dollars, to be recovered by indictment, to the use of the Commonwealth, in any court competent to try the same.

[Approved March 28, 1857.]

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CHAPTER 195 OF ACTS OF 1860.

AN ACT CONCERNING FRAUDULENT NOTICES OF BIRTHS, MARRIAGES,  
AND DEATHS.

*Be it enacted, etc., as follows :*

Any person who shall wilfully send to the publishers of any newspaper, for the purpose of publication, a fraudulent notice of the birth of a child, or of the marriage of any parties, or of the death of any person, shall, upon conviction thereof, be punished by a fine not exceeding one hundred dollars.

[Approved April 4, 1860.]



## GENERAL STATUTES,

*To take effect June 1, 1860.*

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## CHAPTER 21.

## OF THE REGISTRY AND RETURNS OF BIRTHS, MARRIAGES, AND DEATHS.

SECTION 1. The clerk of each city and town shall receive or obtain, and record and index, the following facts concerning the births, marriages, and deaths, therein, separately numbering and recording the same in the order in which he receives them, designating in separate columns:

In the record of births, the date of the birth, the place of birth, the name of the child, (if it have any,) the sex and color of the child, the names and the places of birth of the parents, the occupation of the father, the residence of the parents, and the date of the record;

In the record of marriages, the date of the marriage, the place of marriage, the name, residence, and official station of the person by whom married, the names and the places of birth of the parties, the residence of each, the age and color of each, the condition of each, (whether single or widowed,) the occupation, the names of the parents, and the date of the record;

In the record of deaths, the date of the death, the name of the deceased, the sex, the color, the condition, (whether single, widowed, or married,) the age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of the parents, the disease or cause of death, the place of burial, and the date of the record.

SECT. 2. Parents shall give notice to the clerk of their city or town of the births and deaths of their children; every householder shall give like notice of every birth and death happening in his house; the eldest person next of kin shall give such notice of the death of his kindred; the keeper of a workhouse, house of correction, prison, hospital, or almshouse, except the state almshouses at Tewksbury, Bridgewater, and Monson, and the master or other commanding officer of any ship shall give like notice of every birth and death happening among the persons under his charge. Whoever neglects to give such notice for the space of six months after a birth or death, shall forfeit a sum not exceeding five dollars.

SECT. 3. Any physician having attended a person during his last illness, shall, when requested within fifteen days after the decease of such person, forthwith furnish for registration a certificate of the duration of the last sickness, the disease of which the person died, and the date of his decease, as nearly as he can state the same. If any physician refuses or neglects to make such certificate, he shall forfeit and pay the sum of ten dollars to the use of the town in which he resides.

SECT. 4. Every sexton, undertaker, or other person having charge of a burial-ground, or the superintendent of burials having charge of the obsequies or funeral rites preliminary to the interment of a human body, shall forthwith obtain and return to the clerk of the city or town in which the deceased resided or the death occurred, the facts required by this chapter to be recorded by said officer concerning the deceased, and the person making such return shall receive from his city or town the fee of ten cents therefor.

The clerk, upon recording such facts, shall forthwith give to the person making such return, a certificate that such return has been made, which certificate such person shall deliver to the person having charge of the interment, if other than himself, before the burial when practicable, otherwise within seven days thereafter. When a burial takes place and no certificate is delivered as aforesaid, the sexton, undertaker, or other person having charge of the interment, shall forthwith give notice thereof to the clerk under penalty of twenty dollars.

SECT. 5. The clerk of each city and town shall annually on or before the first day of February, transmit to the secretary of the commonwealth, certified copies of the records of the births, marriages, and deaths, which have occurred therein during the year ending on the last day of the preceding December.

SECT. 6. The record of the town clerk relative to any birth, marriage, or death, shall be prima facie evidence, in legal proceedings, of the facts recorded. The certificate signed by the town clerk for the time being shall be admissible as evidence of any such record.

SECT. 7. The clerk shall receive from his city or town for obtaining, recording, indexing, and returning to the secretary of the commonwealth, the facts in relation to a birth, twenty cents; a marriage, ten cents; a death, twenty cents for each of the first twenty entries, and ten cents for each subsequent entry, as the same shall be certified by the secretary of the Commonwealth; but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to their clerk. He shall forfeit a sum not less than twenty nor more than one hundred dollars for each refusal or neglect to perform any duty required of him by this chapter.

SECT. 8. The superintendents of the state almshouses at Tewksbury, Bridgewater, and Monson, shall obtain, record, and make return of, the facts in relation to the births and deaths which occur in their respective institutions, in like manner as is required of town clerks. The clerks of said towns shall, in relation to the births and deaths of persons in said almshouses, be exempt from the duties otherwise required of them by this chapter.

SECT. 9. The secretary shall at the expense of the Commonwealth prepare and furnish to the clerks of the several cities and towns, and to the superintendents of the state almshouses, blank books of suitable quality and size to be used as books of record under this chapter, blank books for indexes thereto, and blank forms for returns, on paper of uniform size; and shall accompany the same with such instructions and explanations as may be necessary and useful. City and town clerks shall make such distribution of blank forms of returns furnished by the secretary as he shall direct.

SECT. 10. The secretary shall cause the returns received by him for each year to be bound together in one or more volumes with indexes thereto. He shall prepare from the returns such tabular results as will render them of practical utility, make report thereof annually to the legislature, and do all other acts necessary to carry into effect the provisions of this chapter.

SECT. 11. Any city or town containing more than ten thousand inhabitants, may choose a person other than the clerk to be registrar, who shall be sworn, and to whom all the provisions of this chapter concerning clerks shall apply. The returns and notices required to be made and given to clerks shall be made and given to such registrar under like penalties.

SECT. 12. The secretary of this Commonwealth shall prosecute, by an action of tort, in the name of the Commonwealth, for the recovery of any penalty or forfeiture imposed by this [chapter] [*act*].

SECT. 13. Any city or town may make rules and regulations to enforce the provisions of this chapter, or to secure a more perfect registration of births, marriages, and deaths, therein.



## GENERAL STATUTES OF 1860, CHAPTER 29.

## KEEPING AND CUSTODY OF RECORDS.

SECT. 9. Registers of deeds, registers of courts, and the registers and clerks of courts, cities, and towns, shall keep all records and documents belonging to their offices in their sole custody, and shall in no case, except upon summons in due form of law, or when the temporary removal of records and documents in their custody is necessary or convenient for the transaction of the business of the courts or the performance of the duties of their respective offices, cause or permit any record or document to be removed or taken away.

SECT. 10. Under the direction of the officers having the custody of the county, city, and town records and files, the same shall be open for public inspection and examination, and any person may take copies thereof. And the several clerks and registers shall, on payment of a reasonable fee therefor, compare and certify, in the manner herein mentioned, all transcripts properly and correctly made for any county, city, or town, in pursuance of the provisions of this chapter.

## GENERAL STATUTES OF 1860, CHAPTER 106.

## OF MARRIAGE.

SECTION 1. No man shall marry his mother, grandmother, daughter, granddaughter, step-mother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, or mother's sister.

SECT. 2. No woman shall marry her father, grandfather, son, grandson, step-father, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, or mother's brother.

SECT. 3. In all cases mentioned in the two preceding sections in which the relationship is founded on marriage, the prohibition shall continue notwithstanding the dissolution of such marriage by death or divorce, unless the divorce is for a cause which shows the marriage to have been originally unlawful or void.

SECT. 4. All marriages contracted while either of the parties has a former wife or husband living, except as is provided in chapter one hundred and seven, shall be void.

SECT. 5. No insane person or idiot shall be capable of contracting marriage.

SECT. 6. When persons resident in this State, in order to evade the preceding provisions and with an intention of returning to reside in this state, go into another state or country and there have their marriage solemnized, and afterwards return and reside here, the marriage shall be deemed void in this state.

SECT. 7. Persons intending to be joined in marriage shall before their marriage cause notice thereof to be entered in the office of the clerk or registrar of the city or town in which they respectively dwell, if within the state. If there is no such clerk or registrar in the place of their residence, the entry shall be made in an adjoining city or town.

SECT. 8. The clerk or registrar shall deliver to the parties a certificate under his hand, specifying the time when notice of the intention of marriage was entered with him, together with all facts in relation to the

marriage required by law to be ascertained and recorded, except those respecting the person by whom the marriage is to be solemnized. Such certificate shall be delivered to the minister or magistrate in whose presence the marriage is to be contracted, before he proceeds to solemnize the same.

SECT. 9. If a clerk or registrar issues such certificate to a male under the age of twenty-one years, or a female under the age of eighteen years, having reasonable cause to suppose the person to be under such age, except upon the application or consent in writing of the parent, master, or guardian, of such person, he shall forfeit a sum not exceeding one hundred dollars; but if there is no parent, master, or guardian, in this state competent to act, a certificate may be issued without such application or consent.

SECT. 10. The clerk or registrar may require of any person applying for such certificate, an affidavit sworn to before a justice of the peace for the county where the application is made, setting forth the age of the parties; which affidavit shall be sufficient proof of age to authorize the issuing of the certificate.

SECT. 11. Whoever applying for such certificate wilfully makes a false statement in relation to the age or residence, parent, master, or guardian, of either of the parties intending marriage, shall forfeit a sum not exceeding two hundred dollars.

SECT. 12. When a marriage is solemnized in another state between parties living in this state, and they return to dwell here, they shall within seven days after their return file with the clerk or registrar of the city or town where either of them lived at the time, a certificate or declaration of their marriage, including the facts concerning marriages required by law, and for every neglect they shall forfeit ten dollars.

SECT. 13. No magistrate or minister shall solemnize a marriage, having reasonable cause to suppose either of the parties to be under the age mentioned in section nine, without the consent of the parent or guardian having the custody of the minor, if there is any in the state competent to act.

SECT. 14. Marriages may be solemnized by a justice of the peace in the county for which he is appointed, when either of the parties resides in the same county; and throughout the state by any minister of the gospel ordained according to the usage of his denomination, who resides within the state and continues to perform the functions of his office; but all marriages shall be solemnized in the city or town in which the person solemnizing them resides, or in which one or both of the persons to be married reside.

SECT. 15. Marriages among the people called Friends or Quakers may be solemnized in the manner heretofore used and practised in their societies.

SECT. 16. Every justice of the peace, minister, and clerk, or keeper of the records of the meeting wherein any marriages among the Friends or Quakers are solemnized, shall make a record of each marriage solemnized before him, together with all facts relating to the marriage required by law to be recorded. He shall also between the first and tenth days of each month return a copy of the record for the month next preceding, to the clerk or registrar of the city or town in which the marriage was solemnized, and shall, when neither of the parties to a marriage resides in the city or town in which the marriage is solemnized, return a copy of the record of such marriage to the clerk or registrar of the city or town in which one or both of said parties reside. All marriages so returned shall be recorded by the clerk or registrar.

SECT. 17. Every person neglecting to make the returns required by the preceding section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

SECT. 18. A justice of the peace or minister who joins persons in



marriage contrary to the provisions of this chapter, knowing that the marriage is not duly authorized, shall forfeit not less than fifty nor more than one hundred dollars.

SECT. 19. Whoever undertakes to join persons in marriage knowing that he is not authorized so to do, shall be imprisoned in the jail or confined to hard labor for a term not exceeding six months, or pay a fine of not less than fifty nor more than two hundred dollars.

SECT. 20. No marriage solemnized before a person professing to be a justice of the peace or minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, by want of jurisdiction or authority in such person, or by an omission or informality in the manner of entering the intention of marriage, if the marriage is in other respects lawful, and is consummated with a full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

SECT. 21. The record of a marriage, made and kept as prescribed by law by the person before whom the marriage is solemnized, or by the clerk or registrar of any city or town, or a copy of such record duly certified, shall be received in all courts and places as presumptive evidence of such marriage.

SECT. 22. When the fact of marriage is required or offered to be proved before any court, evidence of the admission of such fact by the party against whom the process is instituted, or of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which the fact may be inferred, shall be competent.

SECT. 23. Marriages solemnized in a foreign country by a consul or diplomatic agent of the United States shall be valid in this State; and a copy of the record of a certificate from such consul or agent shall be presumptive evidence of such marriage.

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## GENERAL STATUTES OF 1860, CHAPTER 157.

### TOWN CLERKS.

SECT. 9. For entering notice of an intention of marriage and issuing the certificate thereof, and for entering the certificate of marriage filed by persons married out of the State, fifty cents, to be paid by the parties:

For a certificate of a birth or death, ten cents:

For copies of town records and other documents furnished to any person at his request, if containing less than one page, ten cents, and if more, at the rate of twelve cents a page.

### MINISTERS, ETC., FOR MARRIAGES.

SECT. 10. For lawfully solemnizing and certifying a marriage by a minister or justice of the peace, one dollar and twenty-five cents.

SECT. 15. The word "page" when used as the measure of computation, shall mean two hundred and twenty-four words.

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## CHAPTER 96 OF ACTS OF 1865.

### AN ACT RELATING TO THE REGISTRY AND RETURN OF BIRTHS.

*Be it enacted, etc., as follows:*

SECTION 1. It shall be the duty of every physician and midwife in the several cities and towns in this Commonwealth, on or before the tenth day of each month, to forward to the clerk of each city and town

a correct list of the births of all children born therein during the month next preceding, at which such physician or midwife was present; stating therein, as nearly as practicable, the place and date of each birth, the name, sex, and color of the child, the names, places of birth, and residence of the parents, and the occupation of the father.

SECT. 2. For every certificate of a birth, the physician or midwife shall receive twenty-five cents from such city or town; and any physician or midwife neglecting to forward such list for six months after it is due, shall forfeit a sum not exceeding five dollars, to be recovered as provided in the twelfth section of the twenty-first chapter of the General Statutes.

SECT. 3. This act shall take effect upon its passage.

*Approved March 24, 1865.*

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### CHAPTER 138 OF ACTS OF 1866.

#### AN ACT CONCERNING THE REGISTRY AND RETURN OF MARRIAGES, BIRTHS, AND DEATHS.

*Be it enacted, etc., as follows:*

SECTION 1. The clerk of each city and town except in such cities and towns as choose a registrar, under the eleventh section of the twenty-first chapter of the General Statutes, in which cases the provisions of this act shall apply to the registrar, for receiving or obtaining, recording, indexing and returning the facts relating to marriages, births and deaths occurring therein, shall be entitled to receive therefrom the sums following, viz.: for each marriage, fifteen cents; for each birth, thirty cents; for each death returned to him by the persons specified in sections two, three and four of chapter twenty-one of the General Statutes, twenty cents for each of the first twenty entries, and ten cents for each subsequent entry; for each death not so returned, but by him obtained and recorded, twenty cents.

SECT. 2. Chapter ninety-six of the acts of the year eighteen hundred and sixty-five, and so much of section seven of the twenty-first chapter of the General Statutes as is inconsistent herewith, are hereby repealed.

SECT. 3. This act shall take effect upon its passage.

*Approved April 7, 1866.*

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### CHAPTER 58 OF ACTS OF 1867.

#### AN ACT RELATING TO THE MARRIAGE OF NON-RESIDENT PARTIES.

*Be it enacted, etc., as follows:*

SECTION 1. Persons living without the Commonwealth and intending to be joined in marriage within the Commonwealth, shall, before their marriage, cause notice of their intention to be entered in the office of the clerk or registrar of the city or town in which they propose to have the marriage solemnized; and no marriage between such parties shall be solemnized until they shall have delivered to the justice of the peace, or minister, in whose presence the marriage is to be contracted, a certificate from such clerk or registrar, specifying the time when notice of the intention of marriage was entered with him, together with all the facts in relation to the marriage required by law to be ascertained and recorded, except those respecting the person by whom the marriage is to be solemnized.

SECT. 2. Marriages may be solemnized by a justice of the peace in the county for which he is appointed.



SECT. 3. A justice of the peace or minister who joins persons in marriage contrary to the provisions of this act shall forfeit not less than fifty nor more than one hundred dollars.

*Approved March 11, 1867.*

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#### CHAPTER 248 OF ACTS OF 1867.

##### AN ACT IN RELATION TO MARRIAGE CONTRACTS.

*Be it enacted, etc., as follows :*

SECTION 1. No marriage contract heretofore made between parties, both of whom are now living, or which may be hereafter made, shall be invalid as between the parties thereto and their heirs and personal representatives by reason of the failure to record the same as required by section twenty-eight of chapter one hundred and eight of the General Statutes.

SECT. 2. This act shall take effect upon its passage.

*Approved May 18, 1867.*

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#### CHAPTER 145 OF ACTS OF 1873.

##### AN ACT FIXING THE FEES OF CLERKS AND REGISTRARS FOR THE REGISTRY AND RETURN OF BIRTHS.

*Be it enacted, etc., as follows :*

SECTION 1. The clerk or registrar of a city or town shall receive the sum of fifty cents for receiving or obtaining, recording, indexing and returning the facts relating to each birth; but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to their clerk or registrar.

SECT. 2. This act shall take effect upon its passage.

*Approved April 2, 1873.*

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#### CHAPTER 202 OF ACTS OF 1873.

##### AN ACT RELATING TO THE FEES OF SEXTONS AND OTHERS.

*Be it enacted, etc., as follows :*

SECTION 1. Section four of chapter twenty-one of the General Statutes is amended by striking out the word "ten" after the words "fee of," and inserting instead thereof the word "twenty-five."

SECT. 2. This act shall take effect upon its passage.

*Approved April 16, 1873.*

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#### CHAPTER 341 OF ACTS OF 1873.

##### AN ACT CONCERNING FEES OF TOWN CLERKS FOR OBTAINING AND RECORDING THE FACTS RELATING TO DEATHS.

*Be it enacted, etc., as follows :*

Chapter one hundred and thirty-eight of the acts of the year eighteen hundred and sixty-six is amended by striking out the words "twenty cents" at the close of section one, and substituting therefor the words "thirty-five cents."

*Approved June 6, 1873.*

CHAPTER 21 OF ACTS OF 1875.

AN ACT TO AMEND SECTION FIVE OF CHAPTER TWENTY-ONE OF THE GENERAL STATUTES, IN RELATION TO THE REGISTRY AND RETURNS OF BIRTHS, MARRIAGES AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. Section five of chapter twenty-one, of the General Statutes, is hereby amended by striking out the word "February" in the second line of said section and inserting in place thereof the word "March."

SECT. 2. This act shall take effect upon its passage.

*Approved February 19, 1875.*

CHAPTER 174 OF ACTS OF 1878.

AN ACT TO PROVIDE FOR THE MORE ACCURATE REGISTRATION OF VITAL STATISTICS.

*Be it enacted, etc., as follows :*

SECTION 1. No human body shall be buried, or removed from any city or town, until a proper certificate has been given by the clerk or local registrar of statistics to the undertaker or sexton, or person performing the burial, or removing the body. This certificate shall state that the facts required by chapter twenty-one of the General Statutes have been returned and recorded; and no clerk or local registrar shall give such certificate or burial permit until the certificate of the cause of death has been obtained from the physician, if any, in attendance at the last sickness of the deceased, and placed in the hands of said clerk or local registrar: *provided*, that in those cities and towns where local boards of health have been established, the certificate of the cause of death shall be approved by such board before a permit to bury is given by the registrar or clerk. Upon application, the chairman of the local board of health or any physician employed by any city or town for such purpose, shall sign the certificate of the cause of death to the best of his knowledge and belief, if there has been no physician in attendance. He shall also sign such certificate, upon application, in case of death by dangerous contagious disease, or in any other event when the certificate of the attending physician cannot for good and sufficient reasons be early enough obtained. In case of death by violence, the medical examiner attending shall furnish the requisite medical certificate. Any person violating the provisions of this section shall be punished by a fine not exceeding twenty-five dollars.

SECT. 2. This act shall take effect on the first day of May in the year eighteen hundred and seventy-eight; and all acts and parts of acts inconsistent herewith are hereby repealed.

*Approved April 23, 1878.*

CHAPTER 7 OF ACTS AND RESOLVES OF 1879.

RESOLVE RELATING TO THE TRANSFER OF CERTAIN RECORD OF MARRIAGES FOR THE COUNTY OF SUFFOLK FROM THE YEAR SEVENTEEN HUNDRED AND SIXTEEN TO THE YEAR SEVENTEEN HUNDRED AND THIRTY-ONE.

*Resolved*, That the clerk of the supreme judicial court for the county of Suffolk transfer to the city registrar of the city of Boston, the volume



containing the record of marriages in Suffolk county from the year seventeen hundred and sixteen to the year seventeen hundred and thirty-one inclusive.

*Approved February 19, 1879.*

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## CHAPTER 116 OF ACTS OF 1879.

### AN ACT IN RELATION TO RETURNS OF MARRIAGES.

*Be it enacted, etc., as follows :*

SECTION 1. Every justice of the peace, minister, and clerk, or keeper of the records of the meeting wherein any marriages among the Friends or Quakers are solemnized, shall make a record of each marriage solemnized before him, together with all facts relating to the marriage required by law to be recorded. He shall also between the first and tenth days of each month return a copy of the record for the month next preceding, to the clerk or registrar of the city or town in which the marriage was solemnized, and shall, when one or both of the parties to a marriage resides in a city or town other than that in which the marriage is solemnized, return a copy of the record of such marriage to the clerk or registrar of the city or town in which either party resides, and to both cities or towns when the parties reside in different places. All marriages so returned shall be recorded by the clerk or registrar.

SECT. 2. Every person neglecting to make the returns required by the preceding section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

SECT. 3. Sections sixteen and seventeen of chapter one hundred and six of the General Statutes are hereby repealed.

*Approved March 13, 1879.*

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## CHAPTER 33 OF ACTS OF 1880.

### AN ACT TO COMPEL A MORE ACCURATE REGISTRATION OF BIRTHS.

*Be it enacted, etc., as follows :*

SECTION 1. It shall be the duty of every physician and midwife in the several cities and towns in this Commonwealth, excepting Boston, to report on or before the fifth day of each month to the clerk of each city and town a correct list of births of all children born therein during the month next preceding at which such physician or midwife was present, stating therein the place, date of each birth, and parents' names.

SECT. 2. Town and city clerks shall give public notice that they are prepared to furnish the necessary blanks to all physicians and midwives applying therefor.

SECT. 3. Any physician or midwife neglecting to report such list for ten days after it is due shall for each offence forfeit a sum not exceeding twenty dollars.

SECT. 4. This act shall take effect upon its passage.

*Approved February 26, 1880.*

CHAPTER 11 OF ACTS OF 1881.

AN ACT CONCERNING MARRIAGES IN THE SOCIETY OF FRIENDS.

*Be it enacted, etc., as follows :*

SECTION 1. Section sixteen of chapter one hundred and six of the General Statutes is hereby amended by inserting after the word "him," in the fourth line, the words "or in the said meeting."

SECT. 2. Section twenty of said chapter is hereby amended by inserting after the word "gospel," in the second line, the words "or in the Society of Friends according to its usages," and by inserting after the word "person," in the fourth line, the words "or Society of Friends."

SECT. 3. This act shall take effect upon its passage.

*Approved February 9, 1881.*

CHAPTER 32 OF THE PUBLIC STATUTES.

[Enacted November 19, 1881, to take effect February 1, 1882.]

RECORDS OF BIRTHS, MARRIAGES AND DEATHS.

SECTION 1. The clerk of each city and town shall receive or obtain and record and index, the following facts concerning the births, marriages and deaths therein, separately numbering and recording the same in the order in which he receives them, designating in separate columns as follows :

In the record of births, the date of birth, the place of birth, the name of the child, (if it has any,) the sex and color of the child, the names and places of birth of the parents, the occupation of the father, the residence of the parents, and the date of the record.

In the record of marriages, the date of the marriage, the place of marriage, the name, residence and official station of the person by whom married, the names and the places of birth of the parties, the residence of each, the age and color of each, the condition of each, (whether single or widowed,) the occupation, the names of the parents, and the date of the record.

In the record of deaths, the date of the death, the name of the deceased, the sex, the color, the condition, (whether single, widowed, or married,) the age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of the parents, the disease or cause of death, the place of burial, and the date of the record.

SECT. 2. Parents shall give notice to the clerk of their city or town of the births and deaths of their children ; every householder shall give like notice of every birth and death happening in his house ; the eldest person next of kin shall give such notice of the death of his kindred ; the keeper of a workhouse, house of correction, prison, hospital, or almshouse, except the State almshouse, and the master or other commanding officer of a ship, shall give like notice of every birth and death happening among the persons under his charge. Whoever neglects to give such notice for the space of six months after a birth or death shall forfeit a sum not exceeding five dollars.

SECT. 3. A physician who has attended a person during his last illness shall, when requested within fifteen days after the decease of such person, forthwith furnish for registration a certificate of the duration of the last sickness, the disease of which the person died, and the date of his decease, as nearly as he can state the same. If a physician refuses



or neglects to make such certificate, he shall forfeit ten dollars to the use of the town in which he resides.

SECT. 4. Every sexton, undertaker, or other person having charge of a burial-ground, and every undertaker or superintendent of burials having charge of the funeral rites preliminary to the interment of a human body, shall forthwith obtain and return to the clerk of the city or town in which the deceased resided, or the death occurred, the facts required by this chapter to be recorded by said officer concerning the deceased, and the person making such return shall receive from his city or town the fee of twenty-five cents therefor.

SECT. 5. No human body shall be buried or removed from any city or town until a proper certificate has been given by the clerk or registrar to the undertaker, sexton or other person performing the burial or removing the body. Such certificate shall state that the facts required by this chapter have been returned and recorded; and no clerk or registrar shall give such certificate or burial permit until the certificate of the cause of death has been obtained from the physician, if any, in attendance at the last sickness of the deceased, and placed in the hands of said clerk or registrar; and in cities and towns where there are boards of health, the certificate of the cause of death shall also be approved by such board before a permit to bury is given by the registrar or clerk. Upon application, the chairman of the board of health, or any physician employed by any city or town for such purpose, shall sign the certificate of the cause of death to the best of his knowledge and belief, if there has been no physician in attendance. He shall also sign such certificate, upon application, in case of death by dangerous contagious disease, or in any other event when the certificate of the attending physician cannot for good and sufficient reasons be early enough obtained. In case of death by violence, the medical examiner attending shall furnish the requisite medical certificate. Any person violating the provisions of this section shall be punished by fine not exceeding twenty-five dollars.

SECT. 6. The boards of health of towns and the mayor and aldermen of cities shall, on or before the first day of July in each year, license a suitable number of undertakers to take charge of the funeral rites preliminary to the interment of a human body.

SECT. 7. Physicians and midwives shall on or before the fifth day of each month report to the clerk of each city and town, except Boston, a correct list of all children born therein during the month next preceding at the birth of which they were present, stating the place and date of each birth, and the parents' names.

SECT. 8. The clerk of each city and town shall give public notice that he is prepared to furnish, to all physicians and midwives applying therefor, blanks for returns under the preceding section.

SECT. 9. Any physician or midwife neglecting to report such list for ten days after it is due shall for each offence forfeit a sum not exceeding twenty dollars.

SECT. 10. The clerk of each city and town shall annually, on or before the first day of March, transmit to the secretary of the commonwealth certified copies of the records of the births, marriages and deaths which have occurred therein during the year ending on the last day of the preceding December.

SECT. 11. The record of the town clerk relative to a birth, marriage or death, shall be prima facie evidence, in legal proceedings, of the facts recorded. A certificate, signed by the town clerk for the time being, shall be admissible as evidence of such record.

SECT. 12. The clerk of each city and town, (except in such cities and towns as choose a registrar, in which cases the provisions of this section shall apply to the registrar,) for receiving or obtaining, recording, indexing, and returning the facts relating to marriages,

births and deaths occurring therein, shall be entitled to receive from the city or town for each marriage, fifteen cents; for each birth, fifty cents; for each death returned to him by the persons specified in sections two, three, and four, twenty cents for each of the first twenty entries, and ten cents for each subsequent entry; for each death not so returned, but by him obtained and recorded, thirty-five cents, as the same shall be certified by the secretary of the commonwealth; but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to their clerk or registrar. He shall forfeit not less than twenty nor more than one hundred dollars for each refusal or neglect to perform any duty required of him by sections one, two, three, four, ten, twelve, fourteen, sixteen, and eighteen.

SECT. 13. The superintendent of the state almshouse shall obtain, record, and make return of the facts in relation to the births and deaths which occur in his institution, in like manner as is required of town clerks. The clerk of a town in which such almshouse is located shall, in relation to the births and deaths of persons in said almshouse, be exempt from the duties otherwise required of him by this chapter.

SECT. 14. The secretary shall at the expense of the commonwealth prepare and furnish to the clerks of the several cities and towns, and to the superintendent of the state almshouse, blank books of suitable quality and size to be used as books of record under this chapter, blank books for indexes thereto, and blank forms for returns, on paper of uniform size; and shall accompany the same with such instructions and explanations as may be necessary and useful. City and town clerks shall make such distribution of blank forms of returns furnished by the secretary as he shall direct.

SECT. 15. The secretary shall cause the returns received by him for each year to be bound together in one or more volumes with indexes thereto. He shall prepare from the returns such tabular results as will render them of practical utility, make report thereof annually to the general court, and do all other acts necessary to carry into effect the provisions of this chapter.

SECT. 16. A city or town containing more than ten thousand inhabitants may choose a person other than the clerk to be registrar, who shall be sworn, and to whom all the provisions of this chapter concerning clerks shall apply. The returns and notices required to be made and given to clerks shall be made and given to such registrar under like penalties.

SECT. 17. The secretary of the Commonwealth shall prosecute, by an action of tort in the name of the Commonwealth, for the recovery of any penalty or forfeiture imposed by sections two, three, twelve, sixteen, and eighteen.

SECT. 18. A city or town may make rules and regulations to enforce the provisions of this chapter, or to secure a more perfect registration of births, marriages, and deaths therein.

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## CHAPTER 37 OF THE PUBLIC STATUTES.

### OF THE PUBLIC RECORDS.

SECT. 5. A city or town may cause to be carefully copied such of its records as relates to grants of land,—and also any records of births and marriages kept by such city or town or by a parish within the same.

SECT. 12. Registers of deeds and the registers and clerks of courts, cities and towns shall keep all records and documents belonging to their respective offices in their sole custody, and shall in no case, except upon summons in due form of law or when the temporary removal of



records and documents in their custody is necessary or convenient for the transaction of the business of the courts or the performance of the duties of their respective offices, cause or permit any record or document to be removed therefrom.

SECT. 13. Under the direction of the officers having the custody of any county, city or town records or files, all such records and files shall be open for public inspection and examination, and any person may take copies thereof. And the several clerks and registers shall, on payment of a reasonable fee therefor, compare and certify all copies properly and correctly made in pursuance of the provisions of this chapter.

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## CHAPTER 145 OF THE PUBLIC STATUTES.

### OF MARRIAGE.

#### CERTAIN MARRIAGES PROHIBITED.

SECTION 1. No man shall marry his mother, grandmother, daughter, granddaughter, step-mother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, or mother's sister.

SECT. 2. No woman shall marry her father, grandfather, son, grandson, step-father, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, or mother's brother.

SECT. 3. In all cases in which the relationship mentioned in the two preceding sections is founded on marriage, the prohibition shall continue notwithstanding the dissolution by death or divorce of the marriage on which such relationship is founded, unless the divorce is for a cause which shows such marriage to have been originally unlawful or void.

SECT. 4. All marriages contracted while either of the parties has a former wife or husband living, except as is provided in chapter one hundred and forty-six, shall be void.

SECT. 5. No insane person or idiot shall be capable of contracting marriage.

SECT. 6. No magistrate or minister shall solemnize a marriage, when he has reasonable cause to suppose the male to be under the age of twenty-one years or the female to be under the age of eighteen years, except with the consent of the parent or guardian having the custody of the minor, if there is any such parent or guardian in the Commonwealth competent to act.

SECT. 7. Every marriage solemnized within this Commonwealth, which is prohibited on account of consanguinity or affinity between the parties, or on account of either of them having a former wife or husband living, or when either party was insane or an idiot, shall be void without a decree of divorce or other legal process.

SECT. 8. Every marriage solemnized when either party was under the age of consent shall be similarly void, if the parties separate during such nonage, and do not afterwards cohabit.

SECT. 9. The validity of a marriage shall not be questioned in the trial of a collateral issue on account of the insanity or idiocy of either party, but such question shall only be raised in a process instituted to test such validity in the lifetime of both parties.

SECT. 10. When persons resident in this Commonwealth, in order to evade any of the provisions of the first five sections of this chapter, and with an intention of returning to reside in this Commonwealth, go into another state or country and there have their marriage solemn-

nized, and afterwards return and reside here, the marriage shall be deemed void in this Commonwealth.

SECT. 11. When the validity of a marriage is doubted, either party may file a libel for annulling such marriage, or, when the validity of a marriage is denied or doubted by either party, the other party may file a libel for affirming the same. Such libel shall be filed in the same manner as a libel for divorce, and all the provisions of chapter one hundred and forty-six relative to libels for divorce, and section twenty-four of said chapter, relative to the powers of the court in relation thereto, shall, so far as applicable, apply to libels under this section. Upon proof of the nullity or validity of the marriage, it shall be declared void, or affirmed by a decree of the court, and such decree of nullity may be made notwithstanding the marriage was solemnized out of the Commonwealth, if the libellant had his domicile in the Commonwealth when the marriage was solemnized and also when the libel was filed, and such decree affirming a marriage shall be conclusive upon all persons concerned.

#### LEGITIMACY, CARE, ETC., OF ISSUE OF VOID MARRIAGES.

SECT. 12. The issue of a marriage declared void on account of consanguinity or affinity between the parties shall be deemed to be illegitimate.

SECT. 13. The issue of a marriage declared void on account of the nonage, insanity or idiocy of either party shall be deemed to be the legitimate issue of the parent who was capable of contracting the marriage.

SECT. 14. When a marriage is declared void on account of a prior marriage of either party, and it appears that the second marriage was contracted in good faith and with the full belief of the parties that the former husband or wife was dead, that fact shall be stated in the decree, and the issue of the second marriage, born or begotten before the commencement of the suit, shall be deemed to be the legitimate issue of the parent capable of contracting the marriage.

SECT. 15. Upon or after a decree of nullity the court shall have similar power to make orders concerning the care, custody and maintenance of the minor children of the parties as upon a decree of divorce.

#### NOTICE OF INTENTION OF MARRIAGE.

SECT. 16. Persons intending to be joined in marriage in this Commonwealth shall before their marriage cause notice of their intention to be entered in the office of the clerk or registrar of the city or town in which they respectively dwell, or, if they do not dwell within the Commonwealth, in the office of the clerk or registrar of the city or town in which they propose to have the marriage solemnized. If there is no such clerk or registrar in the place of their residence, the entry shall be made in an adjoining city or town.

SECT. 17. The clerk or registrar shall deliver to the parties a certificate under his hand, specifying the time when notice of the intention of marriage was entered with him, together with all facts in relation to the marriage which are required by law to be ascertained and recorded, except those respecting the person by whom the marriage is to be solemnized. Such certificate shall be delivered to the minister or magistrate before whom the marriage is to be contracted, before he proceeds to solemnize the same.

SECT. 18. If a clerk or registrar issues such certificate to a male under the age of twenty-one years, or to a female under the age of eighteen years, when he has reasonable cause to suppose the person to be under such age, except upon the application or consent in writing of the parent, master or guardian of such person, he shall forfeit a



sum not exceeding one hundred dollars; but if there is no parent, master or guardian in this Commonwealth competent to act, a certificate may be issued without such application or consent.

SECT. 19. The clerk or registrar may require of any person applying for such certificate an affidavit setting forth the age of the parties; which affidavit shall be sworn to before a justice of the peace, and shall be sufficient proof of age to authorize the issuing of the certificate.

SECT. 20. Whoever, when applying for such certificate, wilfully makes a false statement in relation to the age, residence, parent, master or guardian of either of the parties intending marriage, shall forfeit a sum not exceeding two hundred dollars.

SECT. 21. When a marriage is solemnized in another state between parties living in this Commonwealth, and they return to dwell here, they shall within seven days after their return file with the clerk or registrar of the city or town where either of them lived at the time a certificate or declaration of their marriage, including the facts concerning marriages required by law; and for every neglect so to do they shall forfeit ten dollars.

#### BY WHOM AND HOW MARRIAGE MAY BE SOLEMNIZED.

SECT. 22. A marriage may be solemnized by a justice of the peace or by a minister of the gospel, ordained according to the usage of his denomination, who resides in the Commonwealth and continues to perform the functions of his office; but every marriage shall be solemnized in the city or town in which the person solemnizing it resides, or in which one or both of the persons to be married reside.

SECT. 23. A marriage among the people called Friends or Quakers may be solemnized in the manner heretofore used and practised in their societies.

SECT. 24. Every justice of the peace, minister and clerk or keeper of the records of a meeting wherein marriages among Friends or Quakers are solemnized shall make a record of each marriage solemnized before him, or in such meeting, and of all facts relating to the marriage which are required by law to be recorded. He shall also, between the first and tenth days of each month, return a copy of all such records for the month next preceding to the clerk or registrar of the city or town in which the marriage was solemnized, and shall, when one or both of the parties to the marriage resided in a city or town other than that in which the marriage was solemnized, return a copy of the record of such marriage to the clerk or registrar of the city or town in which either party resided, and to the clerks or registrars of both cities or towns when the parties resided in different places. All marriages so returned shall be recorded by the clerk or registrar, and every person neglecting to make the returns required by this section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

SECT. 25. A justice of the peace or minister who joins persons in marriage contrary to the provisions of this chapter, knowing that the marriage is not duly authorized, shall forfeit not less than fifty nor more than one hundred dollars.

SECT. 26. Whoever undertakes to join persons in marriage, knowing that he is not authorized so to do, shall be imprisoned in the jail for a term not exceeding six months, or pay a fine of not less than fifty nor more than two hundred dollars.

SECT. 27. No marriage solemnized before a person professing to be a justice of the peace or a minister of the gospel, or solemnized in the society of Friends according to the usages of said society, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected by want of jurisdiction or authority in such person or society, or by an omission or by informality in the manner of enter-

ing the intention of marriage, if the marriage is in other respects lawful, and is consummated with a full belief on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.

SECT. 28. Marriages solemnized in a foreign country by a consul or diplomatic agent of the United States shall be valid in this Commonwealth.

EVIDENCE OF MARRIAGE.

SECT. 29. The record of a marriage, made and kept as prescribed by law by the person before whom the marriage has been solemnized, or by the clerk or registrar of a city or town, or a copy of such record duly certified, shall be received in all courts and places as presumptive evidence of such marriage.

SECT. 30. When a marriage has been solemnized by a consul or diplomatic agent of the United States, a copy of the record or a certificate from such consul or agent shall be presumptive evidence of such marriage.

SECT. 31. When the fact of marriage is required or offered to be proved before a court, evidence of the admission of such fact by the party against whom the process is instituted, or evidence of general repute or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which the fact may be inferred, shall be competent.

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CHAPTER 199 OF THE PUBLIC STATUTES.

TOWN CLERKS.

SECT. 16. The fees of town clerks shall be as follows :

For entering notice of an intention of marriage and issuing the certificate thereof, and for entering the certificate of marriage filed by persons married out of the state, fifty cents, to be paid by the parties.

For a certificate of a birth or death, ten cents.

MINISTERS, ETC., FOR MARRIAGES.

SECT. 17. For lawfully solemnizing and certifying a marriage, a minister or justice of the peace shall be entitled to receive one dollar and twenty-five cents.

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CHAPTER 207 OF THE PUBLIC STATUTES.

FRAUDULENT NOTICES.

SECT. 68. Whoever wilfully sends to the publisher of a newspaper, for the purpose of publication, a false notice of a birth, marriage or death, shall be punished by fine not exceeding one hundred dollars.

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CHAPTER 124 OF ACTS OF 1883.

AN ACT RELATING TO THE REMOVAL AND TRANSPORTATION OF CERTAIN BODIES FOR BURIAL.

*Be it enacted, etc., as follows :*

SECTION 1. Section five of chapter thirty-two of the Public Statutes, relating to the burial or removal of bodies for burial, is amended by inserting in the eleventh line thereof, after the word "bury," the words "or remove."



SECT. 2. No railroad corporation, or other common carrier or person, shall convey or cause to be conveyed, through or from any city or town in this Commonwealth, the remains of any person who has died of small-pox, scarlet fever, diphtheria, or typhoid fever, until such body has been so encased and prepared as to preclude any danger of communicating the disease to others by its transportation; and no local registrar or clerk shall give a permit for the removal of such body until he has received from the board of health of the city, or the selectmen of the town where the death occurred, a certificate, stating the cause of death, and that said body has been prepared in the manner set forth in this section, which certificate shall be delivered to the agent or person who receives the body.

SECT. 3. This act shall take effect upon its passage.

*Approved April 11, 1883.*

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## CHAPTER 158 OF ACTS OF 1883.

### AN ACT IN RELATION TO THE RETURNS OF BIRTHS BY PHYSICIANS AND MIDWIVES.

*Be it enacted, etc., as follows :*

SECTION 1. Section seven of chapter thirty-two of the Public Statutes is amended so as to read as follows: "Sect. 7. Physicians and midwives shall on or before the fifth day of each month report to the clerk of each city or town, except Boston, a correct list of all children born therein during the month next preceding, at whose birth they were present, stating the date and place of each birth, the name of the child (if it has any), the sex and color of the child, the name, place of birth and residence of the parents, and the occupation of the father. The fee of the physician or midwife shall be twenty-five cents for each birth so reported, and shall be paid by the city or town in which the report is made."

SECT. 2. This act shall take effect upon its passage.

*Approved May 3, 1883.*

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## CHAPTER 36 OF ACTS OF 1886.

### AN ACT TO AMEND SECTION ELEVEN OF CHAPTER ONE HUNDRED AND FORTY-FIVE OF THE PUBLIC STATUTES RELATING TO MARRIAGE.

*Be it enacted, etc., as follows :*

SECTION 1. Section eleven of chapter one hundred and forty-five of the Public Statutes is hereby amended, by inserting in the fourteenth line of said section after the word "filed," the following words: — or has resided in this Commonwealth for five years next preceding the filing of said libel, unless it appears that said libellant has removed into this Commonwealth for the purpose of obtaining said decree.

SECT. 2. This act shall take effect upon its passage.

*Approved March 2, 1886.*

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## CHAPTER 202 OF ACTS OF 1887.

### AN ACT IN RELATION TO THE RETURN AND RECORD OF BIRTHS MARRIAGES AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. Section five of chapter thirty-seven of the Public Statutes is hereby amended by inserting the word: — deaths, — after the

word "births" in the fourth line thereof, so that the same shall read: — also any records of births, deaths and marriages kept by such city or town or by a parish within the same.

SECT. 2. Section four of chapter thirty-two of the Public Statutes is hereby amended by adding at the end thereof the words: — all such returns shall be preserved by said clerk or registrar, and filed, arranged and indexed conveniently for examination and reference.

SECT. 3. Section twenty-four of chapter one hundred and forty-five is hereby amended by adding at the end thereof the words: — all such returns shall be preserved by said clerk or register, and filed, arranged and indexed conveniently for examination and reference.

SECT. 4. The provisions of sections two and three of this act shall apply to all returns of marriages and deaths now in the offices of town and city clerks and city registrars.

SECT. 5. Section one of chapter thirty-two of the Public Statutes is hereby amended by inserting after the word "burial" in the twentieth line of said section the words: — if the deceased was a married woman the name of her husband.

SECT. 6. This act shall take effect upon its passage.

*Approved April 20, 1887.*

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## CHAPTER 63 OF ACTS OF 1888.

AN ACT TO AMEND SECTION THREE OF CHAPTER THIRTY-TWO OF THE PUBLIC STATUTES RELATING TO THE FURNISHING, BY PHYSICIANS, OF CERTIFICATES OF DEATH.

*Be it enacted, etc., as follows:*

SECTION 1. Section three of chapter thirty-two of the Public Statutes is hereby amended by striking out after the words "when requested" in the second line thereof, the words "within fifteen days after the decease of such person."

SECT. 2. This act shall take effect upon its passage.

*Approved February 27, 1888.*

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## CHAPTER 306 OF ACTS OF 1888.

AN ACT RELATING TO THE CERTIFICATES AND REGISTRY OF DEATHS, AND THE BURIAL AND REMOVAL OF BODIES OF DECEASED PERSONS.

*Be it enacted etc., as follows:*

SECTION 1. Section three of chapter thirty-two of the Public Statutes, requiring attending physicians to furnish for registration certain facts relating to deceased persons, is amended so as to read as follows: —

*Section 3.* A physician who has attended a person during his last illness shall, when requested, forthwith furnish for registration, a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died, the duration of his last sickness, and the date of his decease. If the physician neglect or refuse to make a certificate as aforesaid, he shall be punished by a fine not exceeding fifty dollars.

SECT. 2. Section five of said chapter, prohibiting the burial or removal of a human body until a proper certificate is furnished, is amended so as to read as follows:

*Section 5.* No undertaker, sexton or any other person shall bury in a city or town or remove therefrom the



body of a deceased person until he has received a permit so to do from the board of health or its duly appointed agent, or, if there is no board of health in such city or town, from the city or town clerk. No such permit shall be issued until there has been delivered to such board, or agent or clerk, as the case may be, a satisfactory written statement containing the facts required by this chapter to be returned and recorded, together with the certificate of the attending physician, if any, as required by section three of this chapter, or in lieu thereof a certificate as hereinafter provided. If there is no attending physician, or if the certificate of the attending physician cannot be obtained, for good and sufficient reasons, early enough for the purpose, the chairman of the board of health or any physician employed by a city or town for the purpose shall, upon request of said board, agent or clerk, make such certificate as is required of the attending physician; and in case of death by violence the medical examiner shall, if requested, make the same. When such satisfactory statement and certificate are delivered to the board of health or to its agent, the board or agent shall forthwith countersign and transmit the same to the clerk or registrar for registration. The person to whom the permit is so given shall thereafter furnish for registration any other information as to the deceased or to the manner and cause of the death, as the clerk or registrar may require. Any person violating any of the provisions of this section shall be punished by a fine not exceeding fifty dollars.

*Approved May 4, 1888.*

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#### CHAPTER 208 OF ACTS OF 1889.

##### AN ACT IN RELATION TO THE RETURNS OF BIRTHS AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. The clerk or registrar of each city and town shall on the first day of each month make a certified copy of the record of all deaths and births recorded in the books of said city or town during the previous month, whenever the deceased person or the parents of the child born, were resident in any other city or town in this Commonwealth at the time of said death or birth; and shall transmit said certified copies to the clerk or registrar of the city or town in which such deceased person or parents were resident at the time of said death or birth, stating in addition the name of the street and number of the house, if any, where such deceased person or parents so resided, whenever the same can be ascertained; and the clerk or registrar so receiving such certified copies shall record the same in the books kept for recording deaths or births. Such certified copies shall be made upon blanks to be furnished for that purpose by the secretary of the Commonwealth.

SECT. 2. This act shall take effect upon its passage.

*Approved April 5, 1889.*

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#### CHAPTER 288 OF ACTS OF 1889.

##### AN ACT IN RELATION TO THE RETURNS OF BIRTHS BY PHYSICIANS AND MIDWIVES.

*Be it enacted, etc., as follows :*

Section seven of chapter thirty-two of the Public Statutes, as amended by chapter one hundred and fifty-eight of the acts of the year eighteen hundred and eighty-three, is hereby further amended by striking out in

the second and third lines of said section the words "except Boston," so as to read as follows:

*Section 7.* Physicians and midwives shall, on or before the fifth day of each month, report to the clerk of each city or town a correct list of all children born therein during the month next preceding, at whose birth they were present, stating the date and place of each birth, the name of the child (if it has any), the sex and color of the child, the name, place of birth, and residence of the parents, and the occupation of the father. The fee of the physician or midwife shall be twenty-five cents for each birth so reported, and shall be paid by the city or town in which the report is made.

*Approved April 26, 1889.*

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## CHAPTER 402 OF ACTS OF 1890.

### AN ACT IN RELATION TO THE RETURN AND RECORD OF DEATHS.

*Be it enacted, etc., as follows:*

SECTION 1. The last clause of section one of chapter thirty-two of the Public Statutes, as amended by section five of chapter two hundred and two of the acts of the year eighteen hundred and eighty-seven, is hereby further amended so that said clause shall read as follows: In the record of deaths, the date of the death, the name of the deceased, the sex, the color, the condition (whether single, widowed or married,) the age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of parents, the disease or cause of death, the place of burial, if the deceased was a married woman her maiden name, and the name of her husband, and the maiden name of the mother of any deceased person, and the date of the record.

SECT. 2. This act shall take effect upon its passage.

*Approved June 11, 1890.*

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## CHAPTER 300 OF ACTS OF 1892.

### AN ACT RELATING TO THE RECORD AND RETURN OF MARRIAGES.

*Be it enacted, etc., as follows:*

Section twenty-four of chapter one hundred and forty-five of the Public Statutes is hereby amended by inserting in the third line of said section, after the word "make," the words:— and keep, — by striking out, in the fifth line, the words "by law," by inserting after the word "recorded," in said fifth line, the words:— by section one of chapter thirty-two of the Public Statutes, — by striking out the word "each," in the sixth line of said section, and inserting in place thereof the word:— the, — by striking out all after the word "month," in said sixth line, to and including the word "solemnized," in the tenth line, and inserting in place thereof the following words:— following each marriage solemnized by him, return each certificate issued under the provisions of sections sixteen and seventeen of this chapter, to the clerk or registrar who issued the same; and if the marriage was solemnized in a city or town other than the place or places in which the parties to the marriage resided,—by striking out, in the eleventh line, the words "of the record of such marriage," and inserting in place thereof the following words:— of the certificate, or of either certificate in case two were issued,—by striking out all after the word "town," in the twelfth line, to and including "places," in the fourteenth line, and inserting in place thereof the following words:— in which the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the place and date of marriage, and shall be attested by the signature



of the person who solemnized the same, with his official station and residence added thereto,—by striking out the word “marriages,” in said fourteenth line, and inserting in place thereof the words:—certificates or copies,—by inserting after the word “registrar,” in the fifteenth line, the words:—receiving the same,—and by inserting after the word “the,” in said fifteenth line, the words:—record and,—so as to read as follows:

*Section 24.* Every justice of the peace, minister and clerk or keeper of the records of a meeting wherein marriages among Friends or Quakers are solemnized shall make and keep a record of each marriage solemnized before him, or in such meeting, and of all facts relating to the marriage which are required to be recorded by section one of chapter thirty-two of the Public Statutes. He shall also, between the first and tenth days of the month following each marriage solemnized by him, return each certificate issued under the provisions of sections sixteen and seventeen of this chapter, to the clerk or registrar who issued the same; and if the marriage was solemnized in a city or town other than the place or places in which the parties to the marriage resided, return a copy of the certificate, or of either certificate in case two were issued, to the clerk or registrar of the city or town in which the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the place and date of marriage, and shall be attested by the signature of the person who solemnized the same, with his official station and residence added thereto. All certificates or copies so returned shall be recorded by the clerk or registrar receiving the same, and every person neglecting to make the record and returns required by this section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

*Approved May 17, 1892.*

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## CHAPTER 305 OF ACTS OF 1892.

### AN ACT CONCERNING RECORDS OF BIRTHS, DEATHS AND MARRIAGES.

*Be it enacted, etc., as follows:*

SECTION 1. Whenever the records of any city or town do not contain the facts relating to a birth, death or marriage which occurred therein, or whenever such facts are not fully or correctly stated on such records, the clerk or registrar of such city or town may receive a deposition, under oath, containing such facts as are desired for record, and shall then file said deposition and record said facts in a book to be kept for that purpose, stating in addition thereto the name and residence of the deponent and the date of such record. The clerk or registrar shall keep such book separate and apart from the official records of his office, and may certify to the facts contained therein; *provided, however*, that such certificate shall state in addition to all the facts so recorded that the certificate is issued in accordance with the provisions of this act.

SECT. 2. A clerk or registrar shall not alter or amend the record of any former clerk or registrar, nor any record made while he is in office, except to correct a clerical error made by himself or some person under his direction. Whenever it is deemed expedient to make a new copy of any earlier records, each page shall be verified and signed by the clerk or registrar, and such record while preserved in proper custody shall have the same force and effect as the original record.

SECT. 3. Any person who shall make a false return in regard to any birth or death shall be liable to a fine not exceeding fifty dollars.

*Approved May 17, 1892*

CHAPTER 314 OF ACTS OF 1892.

AN ACT CONCERNING THE CITY REGISTRAR OF THE CITY OF BOSTON.

*Be it enacted, etc., as follows:*

SECTION 1. The mayor of the city of Boston shall appoint, subject to confirmation by the board of aldermen of said city, a city registrar, who shall have charge of the registry department of said city and shall have all the powers and perform all the duties appertaining to registrars of cities provided for in section sixteen of chapter thirty-two of the Public Statutes; and said city may from time to time assign to said city registrar any other duties. Chapter two hundred and sixty-six of the acts of the year eighteen hundred and eighty-five and chapter four hundred and eighteen of the acts of the year eighteen hundred and ninety, and all other acts relating to departments of the city of Boston and officers in charge thereof, shall apply to said registry department and to said city registrar.

SECT. 2. The said city registrar shall, from his subordinates, appoint two assistant city registrars, who may, in the absence of the city registrar, perform his duties; and the certificates or attestations of either assistant city registrar shall have the same force and effect as that of the city registrar; said city registrar may pay, out of any funds received by him, the fees due to persons making returns under the requirements of law, and shall on or before the twentieth of each month transmit the accounts and vouchers for all funds so received and fees so paid to the city auditor.

SECT. 3. The duties imposed upon the clerks of cities or towns under sections fourteen and fifteen of chapter thirty-seven of the Public Statutes shall in Boston be performed by the city registrar.

SECT. 4. Said city may from time to time, by ordinance, direct the head of any department, including the city clerk, to place in charge of the city registrar any of the books or papers of such department bearing date prior to the year eighteen hundred and seventy-five, and may in like manner direct their return.

SECT. 5. In the city of Boston the penalties or forfeitures established by section seventeen of chapter thirty-two of the Public Statutes, or by acts supplementary thereto, shall be recovered on complaint, in the same manner as penalties for breaches of the ordinances of said city, and all fines paid on such complaints shall enure to said city for such uses as it may direct.

*Approved May 19, 1892.*

CHAPTER 263 OF ACTS OF 1893.

AN ACT RELATING TO CERTIFICATES AND REGISTRATION OF DEATHS AND TO THE BURIAL AND REMOVAL OF HUMAN BODIES.

*Be it enacted, etc., as follows:*

SECTION 1. Section three of chapter thirty-two of the Public Statutes, as amended by section one of chapter three hundred and six of the acts of the year eighteen hundred and eighty-eight, is hereby amended by inserting after the word "decease," in the seventh line the words: and a physician who has attended at a birth of a child dying immediately thereafter, or at the birth of a stillborn child, shall, when requested, forthwith furnish for registration a certificate stating, to the best of his knowledge and belief, the fact that such a child died after birth or was born dead, — also by inserting after the word "aforesaid," in the eighth line, the words: or makes a false statement therein, — so as to read as follows: *Section 3.* A physician who has attended a person during his last illness shall, when requested forthwith, furnish



for registration, a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died, the duration of his last sickness, and the date of his decease; and a physician who has attended at a birth of a child dying immediately thereafter, or at the birth of a stillborn child, shall, when requested, forthwith furnish for registration a certificate stating, to the best of his knowledge and belief, the fact that such a child died after birth or was born dead. If a physician neglects or refuses to make a certificate as aforesaid, or makes a false statement therein, he shall be punished by a fine not exceeding fifty dollars.

SECT. 2. Section five of chapter thirty-two of the Public Statutes, as amended by section two of chapter three hundred and six of the acts of the year eighteen hundred and eighty-eight, is hereby amended by striking out in the second and third lines thereof, the words "the body of a deceased person," and inserting in place thereof the words: a human body,—so as to read as follows: *Section 5.* No undertaker, sexton, or other person shall bury in a city or town or remove therefrom a human body until he has received a permit so to do from the board of health or its duly appointed agent, or, if there is no board of health in such city or town, from the city or town clerk. No such permit shall be issued until there has been delivered to such board, or agent or clerk, as the case may be, a satisfactory written statement containing the facts required by this chapter to be returned and recorded, together with the certificate of the attending physician, if any, as required by section three of this chapter, or in lieu thereof a certificate as hereinafter provided. If there is no attending physician, or if the certificate of the attending physician cannot be obtained, for good and sufficient reasons, early enough for the purpose, the chairman of the board of health or any physician employed by a city or town for the purpose shall, upon request of said board, agent, or clerk, make such certificate as is required of the attending physician; and in case of death by violence the medical examiner shall, if requested, make the same. When such satisfactory statement and certificate are delivered to the board of health or to its agent, the board or agent shall forthwith countersign and transmit the same to the clerk or registrar for registration. The person to whom the permit is so given shall thereafter furnish for registration any other information as to the deceased or to the manner and cause of the death, as the clerk or registrar may require. Any person violating any of the provisions of this section shall be punished by a fine not exceeding fifty dollars.

SECT. 3. This act shall take effect upon its passage.

*Approved April 26, 1893.*

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## CHAPTER 461 OF ACTS OF 1893.

### AN ACT RELATIVE TO SOLEMNIZING MARRIAGES.

*Be it enacted, etc., as follows:*

SECTION 1. Any rabbi of the Israelitish faith may solemnize a marriage under the same rules, restrictions, obligations and penalties as are imposed by law upon ministers of the gospel in this Commonwealth. Such rabbi must be one duly licensed to act by a congregation of said faith established in this Commonwealth.

SECT. 2. The provisions of section twenty-seven of chapter one hundred and forty-five of the Public Statutes shall apply to such a marriage.

SECT. 3. This act shall take effect upon its passage.

*Approved June 9, 1893.*

CHAPTER 206 OF ACTS OF 1894.

AN ACT RELATING TO RETURNS OF BIRTHS, MARRIAGES, AND DEATHS.

*Be it enacted, etc., as follows :*

Section ten of chapter thirty-two of the Public Statutes is hereby amended by inserting in the first line after the word "town" the words "except Boston," and by adding at the end of said section the words, "the city registrar of Boston shall transmit the copies of his record on or before the first day of May annually," so as to read as follows :

"Section 10. The clerk of each city and town, except Boston, shall annually, on or before the first day of March, transmit to the secretary of the Commonwealth certified copies of the records of the births, marriages, and deaths which have occurred therein during the year ending on the last day of the preceding December. The city registrar of Boston shall transmit the copies of his records on or before the first day of May annually."

*Approved April 5, 1894.*

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CHAPTER 401 OF ACTS OF 1894.

AN ACT CONCERNING THE MARRIAGE OF MINORS.

*Be it enacted, etc., as follows :*

SECTION 1. No town or city clerk or registrar shall receive a notice of the intention of marriage of any male under the age of eighteen years, nor of any female under the age of sixteen years, except as hereinafter provided.

SECT. 2. The judge of probate in any county, after due hearing, may make an order allowing the marriage of a minor under the age specified in the preceding section: *provided*, that said minor resides in a city or town within the county wherein said judge holds court; and *provided, also*, that the father of such minor, or in case of his death the mother, has consented to such order, and that in case neither parent is alive and resident in this Commonwealth a legal guardian has been appointed, whose consent has been given to such order. On the receipt of a certified copy of such order by the clerk or registrar of the town or city where such minor resides, he shall receive the notice required by law and issue a certificate as in other cases.

SECT. 3. This act shall take effect upon its passage.

*Approved May 18, 1894.*

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CHAPTER 402 OF ACTS OF 1894.

AN ACT RELATIVE TO RECORDS OF BIRTHS, DEATHS, AND MARRIAGES.

*Be it enacted, etc., as follows :*

SECTION 1. Section two of chapter three hundred and five of the acts of the year eighteen hundred and ninety-two is hereby amended by striking out all of said section to and including the word "direction," in the fifth line, so as to read as follows :

"Section 2. Whenever it is deemed expedient to make a new copy of any earlier records, each page shall be verified and signed by the clerk or registrar, and such record while preserved in proper custody shall have the same force and effect as the original record."



SECT. 2. No town or city clerk or registrar shall alter or add to any record of a birth, death, or marriage already entered in any book or formal list in his charge, except upon such evidence as was required by law for the original entry, or upon a certified copy of the record of any other city or town, or of the record made at the time by any person since deceased, who was required by law to furnish the evidence of birth, death, or marriage, and such correction shall be at his discretion. In no case shall the first entry be erased, but all corrections shall be added.

SECT. 3. This act shall take effect upon its passage.

*Approved May 18, 1894.*

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## CHAPTER 409 OF ACTS OF 1894.

### AN ACT RELATIVE TO MARRIAGES AND THE ISSUING OF CERTIFICATES THEREFOR.

*Be it enacted, etc., as follows:*

SECTION 1. City clerks and registrars may require notices of intention of marriage to be given to them in writing, on blanks to be furnished by them, by one of the parties to such intended marriage, or by his or her parent or legal guardian, and may require the party giving such notice to make oath before them to the truth of all the statements therein whereof he or she could have knowledge. No fee shall be charged for administering such oath.

SECT. 2. Any city clerk or registrar may refuse to issue a certificate to any parties, in case he has reasonable grounds to believe that any of the statements contained in the notice of intention of marriage are incorrect; but he may, in his discretion, accept depositions under oath, made before him, and such depositions shall be taken and deemed to be sufficient proof of the facts therein stated to authorize the issuing of a certificate. A city clerk or registrar may dispense with the statement of any of the facts required by law to be given in notices of intention of marriage, whenever such facts do not relate to or affect the identity or age of the parties, if he is satisfied that the same cannot be obtained with reasonable effort.

SECT. 3. No city clerk or registrar shall be required to receive notices of intention of marriage at any place except his office, nor shall he be required to receive such notices on the Lord's day or public holidays.

SECT. 4. Whenever, in the marriage of a minor, it is necessary to give notice in two towns or cities, the town or city clerk or registrar who first takes the consent of the parent or guardian shall take it in duplicate, retaining one copy and delivering the other duly attested by him to the party obtaining the certificate, to be given to the clerk or registrar issuing the second certificate; and no fee shall be charged for such consent or copy.

SECT. 5. Any clergyman or rabbi duly authorized to solemnize a marriage in this Commonwealth may perform the ceremony anywhere within the same.

SECT. 6. No person shall give the notice of intention of marriage required by law without the consent of both the parties to such intended marriage, and any person giving such notice without such consent shall be liable in an action of tort to the person whose name was so used without such consent for all damages thereby sustained by such person.

SECT. 7. The superior court, upon petition of either of the parties alleged to intend marriage in a notice of intention of marriage, given

without the consent of both parties therein alleged to intend marriage, and not followed by a marriage between said parties, may, upon such notice as said court may order and after a hearing upon such petition, adjudge that such notice of intention of marriage be cancelled and expunged from the records of the city or town in which the same was recorded.

SECT. 8. Whoever violates any of the provisions of this act shall, upon conviction thereof within one year after such violation, be punished by a fine not exceeding five hundred dollars or by imprisonment in jail or in the house of correction for not more than one year, or both.

*Approved May 19, 1894.*

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## CHAPTER 427 OF THE ACTS OF 1895.

AN ACT RELATIVE TO MARRIAGE AND THE LEGITIMACY OF CHILDREN.

*Be it enacted, etc., as follows:*

Where a marriage contract has been entered into with due legal ceremony and the parties thereafter live together as husband and wife; and where at the time of such marriage ceremony a former husband or wife of one of the parties was living, and the former marriage with such person was still in force; and where such subsequent marriage contract was entered into by at least one of the parties in good faith, in the full belief that the former husband or wife was dead, or that such former marriage had been annulled by divorce; or without knowledge on the part of one of them of such former marriage; and where the impediment to such subsequent marriage existing by reason of the former marriage is removed by the death of the other party to the former marriage, or by a proper decree of divorce, and the parties to such subsequent marriage then continue living together as husband and wife in good faith, on the part of at least one of them, they shall be taken and deemed to have been legally married from and after the removal of such impediment, and the issue of such subsequent marriage shall be deemed to be the legitimate issue of both parents.

*Approved May 29, 1895.*

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## CHAPTER 499 OF THE ACTS OF 1896.

AN ACT RELATIVE TO MARRIAGE AND THE LEGITIMACY OF CHILDREN.

*Be it enacted, etc., as follows:*

The provisions of chapter four hundred and twenty-seven of the acts of the year eighteen hundred and ninety-five shall apply to cases in which the impediment to marriage therein referred to was removed prior to the date when said act took effect, as well as to cases in which such impediment was removed subsequent to such date: *provided*, that no marriage otherwise valid shall hereby be rendered invalid.

*Approved June 5, 1896.*



## CHAPTER 306 OF THE ACTS OF 1896.

## AN ACT RELATIVE TO MARRIAGES.

*Be it enacted, etc., as follows :*

SECTION 1. Any person duly authorized to solemnize marriages in this Commonwealth who shall join in marriage persons who have not complied with the statutes in regard to procuring certificates of notice of intention of marriage shall be punished by a fine not exceeding five hundred dollars.

SECT. 2. Whoever, not being duly authorized by the statutes of this Commonwealth, undertakes to join persons in marriage in this Commonwealth shall be punished by a fine not exceeding five hundred dollars or by imprisonment in jail or in the house of correction not exceeding one year, or by both such fine and imprisonment.

SECT. 3. Sections twenty-five and twenty-six of chapter one hundred and forty-five of the Public Statutes are hereby repealed.

SECT. 4. No person shall solemnize a marriage in this Commonwealth unless he is able to read and write the English language, and no rabbi of the Israelitish faith shall solemnize marriage until he has filed with the clerk or registrar of the town or city where he resides a certificate of the establishment of the synagogue of which he is rabbi, and of the date of his appointment thereto, and of the term of his engagement.

*Approved April 22, 1896.*

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## CHAPTER 424 OF ACTS OF 1897.

## AN ACT RELATIVE TO MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. No alteration or erasure shall be made by any person on a certificate of intention of marriage issued by any town clerk, city clerk or registrar, until after the same shall have been returned to the possession of such clerk or registrar, and then only in such form and to such extent as said clerk or registrar may prescribe. Any such certificate may be recorded after correction in accordance herewith. Any person making an illegal alteration or erasure shall be liable to a fine not exceeding one hundred dollars.

SECT. 2. Whenever any certificate of marriage is returned to any town clerk, city clerk or registrar, and has been found to have been incorrectly filled out by the person solemnizing a marriage under the same, such clerk or registrar shall proceed to have the same corrected, and to enforce the penalties, if any, provided by law in relation thereto. All such imperfect certificates shall be recorded and indexed by such clerk or registrar.

SECT. 3. A town by vote and a city by ordinance may authorize its clerk or registrar to pay on demand, in his office, the sum of twenty-five cents to any person legally solemnizing a marriage in this Commonwealth, after the receipt by such clerk or registrar of the certificate in legal form of the solemnization of such marriage. Towns and cities in which the clerks or registrars thereof are authorized to make such payment shall annually appropriate the money necessary therefor, and such clerks or registrars shall file quarterly with the treasurers or other proper financial officers of said towns and cities proper vouchers for all payments made by them under the provisions of this section.

SECT. 4. If either of the parties to an intended marriage has been legally adopted, such party shall, on the notice of intention of such marriage, give the names of his or her parents by such adoption; but the

names of the natural parents of such party may also be added. Whenever the consent of a parent of a minor is required by law as a preliminary to marriage the consent of a parent by adoption of such minor, if any, shall be sufficient. In case the natural parents of a minor have been divorced and the consent of one of such parents is required by law, preliminary to the marriage of such minor, the consent of the parent having the custody of such minor shall be sufficient.

SECT. 5. The words "official station," as used of a person solemnizing a marriage, in chapter three hundred of the acts of the year eighteen hundred and ninety-two, shall be taken and deemed to mean the office by virtue of which said person solemnizes such a marriage; and to describe such office in returns of marriages the words "justice of the peace," "minister of the gospel," "clergyman," "priest," or "rabbi," only shall be used. [*Approved May 22, 1897.*]

## CHAPTER 439 OF ACTS OF 1897.

### AN ACT RELATIVE TO PUBLIC RECORDS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. The words "public records," when used in this or any other act shall, unless manifestly inconsistent with the context, be construed to mean any written or printed book or paper, or any map or plan of the Commonwealth or of any county, city or town, in or on which any record or entry has been or is to be made in pursuance of any requirement of law, or any written or printed book or paper, or any map or plan which any officer or employee of the Commonwealth or of any county, city or town is required by law to receive, or in pursuance of any such requirement has received for filing, and any book, paper, record or copy mentioned in either of the five following sections. Every such record of the Commonwealth or of a county, city or town, other than maps or plans, consisting of a book, or sheets to be made into a book, in or on which entries are from time to time made or to be made, shall be of paper made of linen rags and new cotton clippings, well sized with animal sizing, and well finished, preference being given to paper of American manufacture marked in water line with the name of the manufacturer. The word "record," in this act without any word of explanation or limitation shall be construed to mean any written or printed book or paper, or any map or plan.

SECT. 2. Every public board and every head consisting of more than one person, in charge of a department or office of the Commonwealth or of a county, city or town, shall designate some person as secretary, who shall enter in books all votes, orders and proceedings of such board, department or office, and shall have the custody of such books; and every such board or head shall designate some employee or employees to have the custody of the other public records pertaining to the work of such board, department or office.

SECT. 3. Every public board, and every head consisting of one person, in charge of a department or office of the Commonwealth or of a county, city or town, having in such department or office any public records, shall have the custody of such records. Every city or town clerk shall have the custody of all records of town proprietaries, and of proprietors of plantations or townships or common lands when the towns, townships or common lands to which such records relate, or the larger part thereof, are within the limits of the city or town of which he is the clerk, and when the proprietors have ceased to be a body politic; also of all records of any church or religious society in such city or town that has ceased to have a legal existence. The secretary of the Commonwealth, clerk of the county commissioners, and city or town clerk, shall respectively have the custody of all other public records of the Commonwealth or of the county, city or town of which he is clerk, when no other disposition of such records is made by law or ordinance.



SECT. 4. Every original paper belonging to the files of the Commonwealth or of any county, city or town, bearing a date earlier than the year eighteen hundred; every book of registry or other book used for recording, belonging to the Commonwealth or to any county, city or town; every deed to the Commonwealth or to any county, city or town; and every report of an agent, officer or committee of the Commonwealth or of any county, city or town, relating to bridges, highways, streets, townways, sewers, or other state, county or municipal interests or matters, not required by law to be entered in a book and not so entered, shall be safely kept, and every other paper belonging to the files of the Commonwealth or of any county, city or town, shall be safely kept for seven years after the latest entry originally made therein or thereon unless required by law to be destroyed at some other time, and no such paper of any county, city or town shall be destroyed unless such destruction is approved by the commissioner of public records.

SECT. 5. Every board of county commissioners, city government, and board of selectmen, may have made for their county, city or town, copies of the records, within or without the Commonwealth, of counties, cities or towns, or town proprietaries, or proprietors of plantations or townships or common lands, relating to lands, easements and rights of way situated in their county, city or town, and copies of the records of births, marriages, deaths and baptisms kept by a church or parish within their city or town.

SECT. 6. Every person having the custody of any public records of a county, city or town, consisting of written or printed books shall, at the expense of the county, city or town, have all such books properly and substantially bound, and shall have any such book left incomplete made up and completed from the files and usual memoranda, so far as it can be done, and shall have any such books becoming worn, mutilated or illegible, seasonably renovated, repaired or rebound, and fair and legible copies thereof seasonably made, and may cause any such books to be placed in the custody of the commissioner of public records, who shall have the work done at the expense of the county, city or town, in a proper and substantial manner.

SECT. 7. Every person having the custody of any public records shall on request for any public record in his custody, furnish the same for inspection and examination under his direction, supervision and care, or under the direction, supervision and care of some person designated by him, and shall on request for a copy of any public record in his custody, and the payment of a reasonable fee, furnish such copy: *provided, however,* that the inspection and furnishing of copies of the public records of a city or town shall be subject to the reasonable ordinances of the city or by-laws of the town.

SECT. 8. Every person having the custody of any public records who under the provisions of any section of this act, shall cause to be made up as aforesaid any public record consisting of a book left incomplete, or shall cause to be made or compared a copy of any public record, shall attest the same and make oath, in the case of such book that it is made up from the usual files and memoranda, and, in the case of such copy that it is a correct copy of the original. Every copy so attested and sworn to shall be admitted in evidence in the same manner and with the same effect as the original.

SECT. 9. Every person who is given by law the custody of any public records shall have power to demand, and shall demand, any such record from the person having the same in his possession, and such person shall forthwith deliver such record to such custodian, and every person having the custody of any public records shall safely keep the same in the rooms in which they are usually used, so arranged that they can be conveniently examined and referred to, and shall keep all such records, when not in use, in the fireproof rooms, vaults or safes provided therefor, except the records in the custody of the teachers of the public schools.

SECT. 10. Every officer or board in charge of a state department, board of county commissioners, city government, and board of selectmen shall, at the expense of the Commonwealth, county, city or town, provide and maintain fireproof rooms, safes or vaults for the keeping as aforesaid

of the public records of their department, county, city or town, other than the records in the custody of teachers of the public schools, and shall hereafter furnish for such rooms only fittings of non-combustible materials.

SECT. 11. Every person having the custody of any public records shall, when succeeded in such custody by another person, forthwith deliver to the successor all public records in his custody which he is not authorized by law to retain, and shall make oath that he has so delivered such records, before, and to be recorded by, the secretary of the Commonwealth, or the clerk of the county commissioners, or the city or town clerk, according as the records so delivered are the records of the Commonwealth, county, city or town.

SECT. 12. Every person who unlawfully keeps in his possession any public record, or removes any public record from the room in which it is usually kept, or violates any of the provisions of this act, or alters, defaces, mutilates or destroys any public record, shall, for each offence, be punished by a fine of not less than ten dollars nor more than five hundred dollars; and every public officer who neglects or refuses to perform any duty required of him by this act shall, for each month of such neglect or refusal, be punished by a fine of not more than twenty dollars.

SECT. 13. The provisions of this act shall not be construed as applying to the records of the general court.

SECT. 14. Chapter thirty-seven of the Public Statutes, section one of chapter two hundred and two of the acts of the year eighteen hundred and eighty-seven, chapter three hundred and seven of the acts of the year eighteen hundred and eighty-eight, chapters two hundred and twenty-seven and three hundred and ninety-two of the acts of the year eighteen hundred and ninety, chapters two hundred and eighty-one and three hundred and forty of the acts of the year eighteen hundred and ninety-one, chapter three hundred and fifty-six and section one of chapter four hundred and two of the acts of the year eighteen hundred and ninety-four, and all acts and parts of acts inconsistent herewith, are hereby repealed. [*Approved May 28, 1897.*]

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## CHAPTER 444 OF ACTS OF 1897.

### AN ACT RELATIVE TO THE REGISTRY AND RETURN OF BIRTHS, MARRIAGES AND DEATHS.

*Be it enacted, etc., as follows:*

SECTION 1. The clerk of each city and town shall receive or obtain an record the following facts concerning the births, marriages and deaths therein, separately numbering and recording the same, designating the facts hereinafter specified in separate columns as follows:—In the record of births, the date of the record, the date of birth, the place of birth, the name of the child, the sex and color of the child, the names and places of birth of the parents, including the maiden name of the mother, the occupation of the father, and the residence of the parents. In the record of the birth of an illegitimate child the name and other facts relating to the father shall not be recorded unless at the joint request in writing of both father and mother. The term “illegitimate,” shall not be used in the record of a birth unless the fact has been legally determined or upon the sworn statement of both the father and mother. In the record of marriages, the date of the record, the date of the marriage, the place of marriage, the name, residence, and official station of the person by whom the marriage is solemnized, the names and places of birth of the parties married, the residence of each, the age and color of each, the number of the marriage (for example, the first or second marriage), and if previously married whether widowed or divorced, the occupation of each and the names of their parents, with the maiden name of the mother. If the bride is a widow or divorced her maiden name shall also be given. In the record of deaths, the date of the record, the date of the death, the name of the deceased, the sex, the color, the condition (whether single, widowed,



married or divorced), the supposed age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of the parents, the disease or cause of death, the place of burial, with the name of the cemetery if it has any, the maiden name of the mother, and if the deceased was a married or divorced woman or a widow, her maiden name and the name of her husband. In cities the word "residence," as used in this section, shall be held to include the name of the street and the number of the house, if any.

SECT. 2. The clerk of each city and town shall index in separate indexes of births, marriages and deaths the names of all persons recorded as born, married or dead.

SECT. 3. Physicians and midwives shall on or before the fifth day of each month report to the clerk of each city or town a correct list of all children born therein during the month next preceding, at whose birth they were present, stating the date and place of each birth, the name of the child if it has any, the sex and color of the child, the name, place of birth and residence of the parents, the maiden name of the mother, and the occupation of the father. If the child is illegitimate the name of the father shall not be stated, unless at the joint request in writing of both father and mother, which request shall be filed with the returns of births. The fee of the physician or midwife shall be twenty-five cents for each birth so reported, and shall be paid by the city or town in which the report is made, upon presentation of a certificate from the city or town clerk, stating that said births have been reported in conformity with the requirements of this section. Any physician or midwife neglecting to report such list for ten days after it is due shall for each offence forfeit a sum not exceeding twenty-five dollars.

SECT. 4. Any member or servant of a family in which a child is born, having knowledge of the facts required for record concerning the birth of such child, shall furnish the same upon request of the clerk of the city or town wherein such child was born or its parents reside, or of any person authorized by him to obtain such facts. Any such member or servant of a family who refuses to furnish such facts shall for each offence forfeit not exceeding ten dollars.

SECT. 5. The clerk of every city and town shall annually in the month of January ascertain or cause to be ascertained the facts required for record by section one of this act relating to the birth of all children born therein within the year preceding the first day of said January.

SECT. 6. Parents shall, within forty days after the birth of a child, give notice thereof or cause such notice to be given, to the clerk of the city or town in which such child is born. Every householder shall, within forty days after the date of a birth occurring in his house, give notice thereof, or cause such notice to be given to the clerk of the city or town in which he resides; and he shall also, within five days after the date of a death occurring in his house, give notice thereof or cause such notice to be given, to the board of health, other than the selectmen, or if there is no such board, to the clerk of such city or town. The oldest person next of kin present at the time of the death of any of his kindred in the city or town in which such death occurs shall, within five days thereafter, give notice thereof or cause such notice to be given, to such board of health, or if there is no such board, to the clerk of such city or town. The keeper, superintendent or person in charge of a workhouse, house of correction, prison, reformatory, reform school, hospital, almshouse or other institution, public or private, receiving inmates from within or without the limits of the city or town in which it is located shall, when a person is received into the institution of which he is the keeper, superintendent or person in charge, obtain a record of all the facts which would be required for record in the event of the death of such person so received, and shall, on or before the fifth day of each month, give notice to the clerk of said city or town of every birth and death happening among the persons under his charge during the month next preceding. The facts required for record by section one of this act shall, so far as known or obtainable, be included in every notice given under this section.

SECT. 7. The master or other commanding officer of a vessel shall give notice, with the facts required for record, of every birth or death happening among the persons under his charge. In case of a birth the notice shall be given to the clerk, and in case of a death to the board of health, other than the selectmen, or if there is no such board, to the clerk of the city or town within the Commonwealth at which his vessel first arrives after said birth or death.

SECT. 8. Any parent, keeper, superintendent or other person required by section six of this act to give, or cause to be given, notice of a birth or death, who neglects to give the required notice or cause the same to be given, for ten days after it is due, shall for each offence forfeit not exceeding five dollars, and the master or commanding officer of a vessel who neglects to give such notice for ten days after the arrival of his vessel at the port where notice is to be given shall forfeit not exceeding five dollars.

SECT. 9. The clerk of any city or town may enter upon the record already made by him concerning a person born in such city or town any information obtained in writing by the canvass mentioned in section five, or by his own efforts, which is needed to supply deficiencies in said records, but shall make no changes in facts already recorded, except as provided in section fourteen of this act or to correct errors in copying from certificates or returns on file in his office. When an error in copying is corrected a statement of the fact that the correction is made to correct an error in copying shall be entered upon the record over the signature of the clerk.

SECT. 10. A physician who has attended a person during his last illness shall forthwith, after the death of said person, furnished for registration at the request of a duly licensed undertaker or other authorized person, or any member of the family of such deceased person, a certificate, stating to the best of his knowledge and belief the name of the deceased, his supposed age, the disease of which he died, the duration of his last sickness, and the date of his decease; and a physician who has attended at the birth of a child dying immediately thereafter, or a physician or midwife who has attended at the birth of a child born dead, shall forthwith furnish for registration a certificate stating that to the best of his or her knowledge and belief such child either died immediately after birth or was born dead. Both the birth and death of such child shall be recorded, and if the child was born dead the word "stillborn," shall be entered in both the record of birth and death. A physician or midwife who neglects or refuses to make the certificate required by this section or who makes a false statement therein shall forfeit not exceeding fifty dollars.

SECT. 11. A physician who has attended a person in his last illness, in furnishing a certificate for the purpose of registration as required by section ten shall, in case the deceased was a soldier or a sailor who served in the war of the rebellion, give both the primary and the secondary or immediate cause of death as nearly as he can state the same. A physician who refuses or neglects to make such certificate shall forfeit ten dollars.

SECT. 12. Every undertaker or other person having charge of the funeral rites preliminary to the interment of a human body shall forthwith obtain the physician's certificate made in accordance with section ten of this act, and shall enter thereon the facts required by section one of this act to be recorded concerning the deceased, and shall return the same to the board of health, other than the selectmen, or its duly appointed agent; or if there is no such board, to the clerk of the city or town in which the death occurred. The person making such return shall receive from the city or town a fee of twenty-five cents therefor.

SECT. 13. The clerk of each city and town shall forthwith make certified copies of the records of all births and deaths recorded in the books of said city or town during the previous month, whenever the deceased person or the parents of the child born were resident in any other city or town in this Commonwealth or any other state at the time of said birth or death; and shall transmit said certified copies to the clerk of the city or town in which such deceased person or parents were resident at the time of said birth or death, stating in addition the name of the street and number of the house, if any, where such deceased person or parents so resided,



whenever the same can be ascertained; and the clerk of every city or town in this Commonwealth so receiving such certified copies, or certified copies of births, deaths or marriages, from the clerk of a city or town without the Commonwealth, shall record the same in the books kept for recording births, deaths or marriages.

SECT. 14. Whenever the record relating to a birth, marriage or death in the records of any city or town does not contain all the facts required for record, or when it is alleged that the facts are not correctly stated in such record, the clerk of such city or town shall receive a deposition under oath, made by one who was required by law to furnish the information for the original record, or, at his discretion, by three or more credible persons having knowledge of the case, containing such facts as are desired for record. Having received such deposition he shall then file the same, and record said facts in a separate book to be kept for recording such depositions, adding thereto the name and residence of the deponent and the date of such record, and shall thereupon draw a line through the incorrect statements without erasing them, and enter upon the original record the facts needed to amend the record, and forthwith, if a copy of the record has been sent to the secretary of the Commonwealth, forward a certified copy of the corrected record to the secretary upon blanks provided by him for the purpose, who shall thereupon amend the record in his office, and state in the margin thereof his authority for so doing. Reference to the record of the deposition recorded shall be made by the clerk against the original record. The clerk when furnishing a copy of such record shall certify to the facts contained in the record as amended, and shall state in addition that the certificate is issued in accordance with the provisions of this act, and a copy of this section shall be printed on every such certificate. Such deposition, or a certified copy of the record of any other city or town, or of the record made at the time by any person since deceased who was required by law to furnish the evidence of a birth, marriage or death may, at the discretion of the clerk, be made the basis for the record of a birth, marriage or death not previously recorded, and such copy of record may also be made the basis for completing the record of a birth, marriage or death which does not contain all the required facts.

SECT. 15. Any person who wilfully makes a false return in regard to any birth or death shall forfeit not exceeding fifty dollars.

SECT. 16. All the returns of births, marriages and deaths made as provided by law shall be preserved by the city or town clerk and filed and arranged conveniently for examination and reference.

SECT. 17. The clerk of each city and town shall annually give public notice that he is prepared to furnish to parents, householders, physicians and midwives applying therefor, blanks for returns of births as required by law.

SECT. 18. The secretary of the Commonwealth shall, at the expense of the Commonwealth, prepare and furnish to the clerks and boards of health of the several cities and towns, and to the superintendent of the state almshouse, blank books of suitable quality and size, to be used as books of record under this act, blank books for indexes thereto, and blank forms for returns on paper of uniform size: *provided, however*, that any city or town may provide books and forms which shall conform to those prepared by the secretary of the Commonwealth. He shall accompany the same with such instructions and explanations as may be necessary and useful. City and town clerks shall make such distribution of blank forms of returns furnished by the secretary as he shall direct.

SECT. 19. The clerk of each city and town shall annually, on or before the first day of March, transmit to the secretary of the Commonwealth fair and legible certified copies of the records of births, marriages and deaths which have been recorded therein during the year ending on the last day of the preceding December, together with certified copies, upon blanks provided by the secretary, of all such records and corrections in records of births, marriages and deaths, as may not have been previously returned: *provided*, that in cities, except Boston, containing over thirty thousand inhabitants, said copies shall be transmitted on or before the first day of April.



The copies from the city of Boston shall be transmitted on or before the first day of May.

SECT. 20. It shall be the duty of the secretary of the Commonwealth to see that all copies sent to his office under the provisions of section nineteen of this act are written in a fair and legible hand, and any city or town clerk who neglects or refuses to make or cause to be made fair and legible copies as required shall forfeit not less than twenty dollars nor more than one hundred dollars, to be recovered in an action in the name of the secretary of the Commonwealth.

SECT. 21. The record of the city or town clerk relative to a birth, marriage or death shall be *prima facie* evidence in legal proceedings of the facts recorded. A certificate signed by the city or town clerk or assistant clerk for the time being shall be admissible as evidence of such record.

SECT. 22. The superintendent of the state almshouse shall obtain, record and make return of the facts in relation to the births and deaths which occur in his institution, in like manner as is required by town clerks. The clerk of a town in which such almshouse is located shall, in relation to the births and deaths of persons in said almshouse, be exempt from the duties otherwise required of him by this act.

SECT. 23. The secretary shall cause the copies received by him for each year to be bound together in one or more volumes, with indexes thereto. He shall prepare from the copies such tabular results as will render them of practical utility, make report thereof annually to the general court, and do all other acts necessary to carry into effect the provisions of this act.

SECT. 24. Any city or town containing more than ten thousand inhabitants, except the city of Boston, may choose or provide for the appointment of a person other than the clerk to be registrar, who shall be sworn, and to whom all the provisions of this act concerning clerks shall apply. The returns and notices required to be made and given to clerks shall be made and given to such registrar and to the city registrar of the city of Boston under like penalties; and all the provisions of this act concerning clerks shall apply to said last named registrar.

SECT. 25. Whenever any physician, midwife, parent, householder, keeper, superintendent or person in charge of any institution mentioned in section six of this act, or master or other commanding officer of a vessel, neglects to make any of the reports required by the provisions of this act to the clerk or board of health of any city or town, or whenever any person refuses to furnish the facts as required by section four of this act, said clerk shall notify such person of the requirement, and if such person neglects for the period of one month to make said report said clerk shall notify the agent or attorney duly appointed by the city or town to sue in its corporate capacity, or if there is no such agent or attorney the district attorney of his district, of such neglect, who shall thereupon institute proceedings against such person for the recovery of the penalty or forfeiture imposed by this act.

SECT. 26. The city or town clerk shall notify the person authorized to institute proceedings under the preceding section of the violation of any of the provisions of this act within his city or town which comes to his notice, except violations for which he might be liable, and the person so notified shall thereupon institute a prosecution against the person guilty of such violation.

SECT. 27. In any statement of births and deaths printed by authority of a city or town no name of an illegitimate child or its parents or of the parents of a stillborn child shall be printed, but the word "illegitimate" or "stillborn," as the fact may be, shall be used in place thereof. Any city or town which prints the name of a child or either of its parents in violation of this section shall forfeit to the mother of such child not exceeding one hundred dollars.

SECT. 28. All forfeitures recovered under this act shall accrue to the benefit of the city or town in which the return required should have been made, except as provided in sections twenty and twenty-seven.

SECT. 29. The clerk of each city or town, for receiving or obtaining, recording and returning the facts relating to marriages, births and deaths



occurring therein, and for indexing the names, shall be entitled to receive from the city or town, upon presenting a certificate of the receipt of said copy by the secretary of the Commonwealth, for each marriage, twenty cents; for each birth, fifty cents; for each death returned to him by an undertaker or the board of health, twenty cents; for each death not so returned but by him obtained and recorded, fifty cents. He shall also receive from the city or town the following fees:—For each certificate transmitted under the provisions of section thirteen of this act, twenty-five cents; for receiving and recording a deposition and forwarding a copy thereof under the provisions of section fourteen of this act, fifty cents; for sending the notification required by section twenty-five of this act, twenty-five cents; for each oath administered in his capacity as clerk, twenty-five cents. But a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to its clerk. A city or town clerk shall forfeit not less than twenty dollars nor more than one hundred dollars for each refusal or neglect to perform any duty required of him by this act.

SECT. 30. Any of the oaths required by any of the provisions of this act may be administered by the clerk or assistant clerk of any city or town in his official capacity.

SECT. 31. Sections one to four, both inclusive, and sections seven to eighteen, both inclusive, of chapter thirty-two of the Public Statutes; chapter one hundred and fifty-eight of the acts of the year eighteen hundred and eighty-three; sections two, three, four and five of chapter two hundred and two of the acts of the year eighteen hundred and eighty-seven; chapter sixty-three and section one of chapter three hundred and six of the acts of the year eighteen hundred and eighty-eight; chapters two hundred and eight, two hundred and twenty-four and two hundred and eighty-eight of the acts of the year eighteen hundred and eighty-nine; chapter four hundred and two of the acts of the year eighteen hundred and ninety; chapter three hundred and five of the acts of the year eighteen hundred and ninety-two; section one of chapter two hundred and sixty-three of the acts of the year eighteen hundred and ninety-three; chapter two hundred and six and section two of chapter four hundred and two of the acts of the year eighteen hundred and ninety-four, and all acts and parts of acts inconsistent herewith, are hereby repealed.

SECT. 32. This act shall take effect on the first day of January in the year eighteen hundred and ninety-eight. [*Approved June 2, 1897.*]

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## CHAPTER 84 OF ACTS OF 1857.

### AN ACT AUTHORIZING TRANSCRIPTS OF TOWN OR CITY RECORDS.

*Be it enacted, etc.*

SECTION 1. Any town or city in this Commonwealth may cause to be carefully transcribed such of its records as relate to grants of lands, or the grants or divisions and allotments of lands made by the original proprietors of such township, or to any easements or private rights, or its records relating to ways, or any records of births and marriages, kept by such town or city, or by any parish within the same; and such transcripts, having been first compared and certified, under oath, by the clerk of such town or city for the time being, and deposited in the office of said clerk, shall have the force, effect, and credit of original records.

SECT. 2. Any town or city, whose territory, in whole or in part, has been, or may hereafter be, set off from any other town or city, may cause to be carefully transcribed such of the records, named in the first section of this act, as relate to lands, easements, rights or ways situated in the territory so set off; and such transcripts, being compared and certified, under oath, by the clerk of the town or city where

such records are kept, and deposited in the clerk's office of the town or city in which the land is situated to which they relate, shall have the force, effect, and credit of original records of such last named town or city.

SECT. 3. The records of any town or city shall be open to the free access and examination of any suitable person appointed to transcribe therefrom, in accordance with section second of this act; and the clerk of such town or city, shall, for a reasonable fee to be paid therefor, compare and certify such transcripts, when properly and correctly made.

SECT. 4. The clerk of every city and town in this Commonwealth shall make a certified copy of the record of all marriages, recorded in the books of said city or town, where either or both of the parties married, were resident in any other town in the Commonwealth at the time of said marriage; and he shall also, as far as the same is practicable, make a like copy of all such marriages recorded in any parish records, or in any records kept by any clergyman or magistrate within said town; and the said clerk shall transmit said certified copies to the clerk of the city or town in which such party or parties were resident at the time of said marriage, and the clerk so receiving such certified copies shall record the same in a book to be kept for that purpose. And the clerks of the several cities and towns shall receive a reasonable compensation for the services so rendered, to be paid by their respective cities or towns: *provided, however*, that the provisions of this section shall apply only to marriages solemnized prior to the year eighteen hundred. [*Approved April 24, 1857.*]

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## CHAPTER 15, OF THE PUBLIC STATUTES.

### OF THE EXECUTIVE DEPARTMENT AND THE SECRETARY OF THE COMMONWEALTH.

SECT. 12. The secretary shall have the custody of the state seal; and copies of records and papers in his office, certified by him and authenticated by the state seal, shall be evidence in like manner as the originals.





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It seems that the Legislature of Massachusetts had made provision for this point. In the Revised Statutes of 1836, chapter 4, section 13, it was provided that

“If, at any election a greater number of candidates than the number to be elected shall severally receive a majority of the whole number of ballots, a number equal to the number to be elected, of such as have the greatest excess over such majority, shall be deemed and declared to be elected; but if the whole number to be elected cannot thus be completed, by reason of any two or more of such candidates having received an equal number of ballots, the candidates having such equal number shall be deemed not to be elected.”

This was during the period when an absolute majority was necessary to a choice; but in 1855 the plurality law was established by Amendment No. 14. The statute was then altered (see Gen. Stat., chap. 7, § 14, and Pub. Stat., chap. 7, § 25), providing that in all elections of civil officers by the people, “the person or persons having the highest number of votes shall be deemed and declared elected, but no persons receiving the same number of votes shall be deemed to be elected, if thereby a greater number would be elected than required by law.”

This, of course, did away with the old trouble of having too many candidates receive a majority vote, as that feature was not essential. It is confined, however, to popular elections, and the case still arises in representative bodies, city councils, societies, and others where the majority rule remains.

I trust, therefore, this little explanation will not be deemed superfluous.

W. H. WHITMORE

Boston, March 17, 1892.



# LIST OF CITY CLERKS, 1897.

CITIES.	INCORPORATED.	CLERKS.
Boston . . . . .	1822	{ John Mitchel Galvin. William H. Whitmore (Registrar).
Salem . . . . .	1836	J. Clifford Entwisle.
Lowell . . . . .	1836	Girard P. Dadman.
Cambridge . . . . .	1846	Edward J. Brandon.
New Bedford . . . . .	1847	Daniel B. Leonard.
Worcester . . . . .	1848	Enoch H. Towne.
Lynn . . . . .	1850	Joseph W. Attwill.
Newburyport . . . . .	1851	George H. Stevens.
Springfield . . . . .	1852	E. A. Newell.
Lawrence . . . . .	1853	William T. Kimball.
Fall River . . . . .	1854	George A. Ballard.
Chelsea . . . . .	1857	George B. Gurney.
Taunton . . . . .	1864	Edwin A. Tetlow.
Haverhill . . . . .	1869	William W. Roberts.
Somerville . . . . .	1871	George I. Vincent.
Fitchburg . . . . .	1872	Walter A. Davis.
Holyoke . . . . .	1873	Edward A. Kane.
Gloucester . . . . .	1873	John J. Somes.
Newton . . . . .	1873	Isaac F. Kingsbury.
Malden . . . . .	1881	Leverett D. Holden.
Brockton . . . . .	1881	DeWitt C. Packard.
Northampton . . . . .	1883	Egbert I. Clapp.
Waltham . . . . .	1884	Luman N. Hall.
Quincy . . . . .	1888	Harrison A. Keith.
Woburn . . . . .	1888	John H. Finn.
Pittsfield . . . . .	1889	Edward C. Hill.
Chicopee . . . . .	1890	John D. White.
Marlborough . . . . .	1890	Peter B. Murphy.
Medford . . . . .	1892	Allston P. Joyce.
Everett . . . . .	1892	Joseph H. Cannell.
Beverly . . . . .	1894	Luther S. Herrick.
North Adams . . . . .	1895	Charles S. Brooker.

ANNUAL REPORT  
OF THE  
REGISTRY DEPARTMENT  
OF THE  
CITY OF BOSTON,  
FOR THE  
YEAR 1897.

[The first report of this department was for the year 1849. No report was issued for the years 1860 and 1861. The title-page of the report for 1882 is wrongly printed as Document 80 of 1882, instead of 1883.]



BOSTON:  
MUNICIPAL PRINTING OFFICE.  
1898.



## A MYSTERY OF THE BALLOT.

(From the *Nation* for April 14, 1892.)

In looking over the pages of the *Historical Magazine* I noticed an article copied from the *Boston Advertiser* for some date about A.D. 1860, calling attention to a matter which has often puzzled those who have counted ballots. It is this: when several persons ballot honestly to choose several persons on one ballot, how is it that more than the necessary number receive a majority of ballots? For example: if five men each vote for three candidates, requiring thus three votes to elect, why is it that more than three of them get three votes? In dealing with larger figures, the number of successful candidates may be so many as to almost double the list. I have known some such instances, and have often heard the statement that the result was impossible and showed evident fraud. After studying the example given in the article quoted, I believe that I discern the principle, a very simple one, but I have never happened to see it stated. I will therefore do so, believing that many persons share my ignorance and will be glad to see an explanation.

The rule seems to be this: multiply the number of officers to be chosen by the number of votes, and divide the result by the number required for an election; the quotient will be the number of persons who can be elected, and the remainder will represent unnecessary or cumulative votes, which may be discarded.

Thus, if five voters each vote for three candidates, a total of fifteen votes is cast; which, divided by three, the number necessary for a choice, gives five candidates receiving a majority vote.

Example:

A	votes for candidates	1, 2, 3.
B	" " "	1, 2, 3.
C	" " "	1, 4, 5.
D	" " "	2, 4, 5.
E	" " "	3, 4, 5.

The individual ballot might be varied considerably, always resulting, however, in a majority vote for five candidates. In fact, as the majority is always a little more than one-half the number of voters, the quotient in the rule must always be at least one less than double the number of candidates; but the greater the number of voters and candidates, the less the discrepancy will be. In fact, the true answer to the problem seems to be this: the number of candidates receiving a majority may always amount to twice the number voted for on one ballot, *less one* invariably, and also less a few more, according to the results of the rule. But I think it will surprise most persons to find that if 100 persons ballot for 30 candidates, 58 could receive a majority vote, or 51 votes apiece; though a little explanation makes it self-evident.

ANNUAL REPORT

OF THE

REGISTRY DEPARTMENT

OF THE

CITY OF BOSTON,

FOR THE

YEAR 1897.

[The first report of this department was for the year 1849. No report was issued for the years 1860 and 1861. The title-page of the report for 1882 is wrongly printed as Document 80 of 1882, instead of 1883.]



BOSTON:  
MUNICIPAL PRINTING OFFICE.  
1898.





BOSTON, June 6, 1898.

HON. JOSIAH QUINCY,

*Mayor of the City of Boston:*

SIR: In compliance with the ordinance, I beg leave to report that, according to our books, there were recorded for the year 1897,

16,973 births { including 280 children of parents usually residing out of this city.  
34 born out of town of Boston parents.

6,790 intentions of marriage.

6,062 marriages solemnized in this city.

846 marriages of citizens married elsewhere in the State,  
including 115 marriages of citizens married out  
of the State.

11,170 deaths.

640 still-born children.

As compared with previous years :

	1893.	1894.	1895.	1896.	1897.
Births .	14,602	15,401	15,613	16,484	16,973
Intentions .	6,564	6,251	6,799	7,043	6,790
Marriages .	5,755	5,464	5,932	6,318	6,062
Deaths .	11,713	11,531	11,331	11,650	11,170

#### LEGISLATION.

As chapter 444 of Acts of 1897 only came into effect on January 1, 1898, it is too soon to decide upon its practical working. The provision for obtaining the maiden names of mothers in returns of births and deaths has been vigorously



enforced. After the usual misunderstandings and complaints over any change in the law, I am happy to report that physicians generally have done their best to comply with it. Still many blanks must remain unfilled. As to deaths, the law was not new, but I cannot feel the same confidence that the returns are accurate.

Two new acts passed by the Legislature in 1898 are printed in the appendix. Chapter 389 provides for official seals for the city registrar of Boston and for the clerks of towns, such seals to be used for attesting copies of records. This act does not go into effect until January 1, 1899.

Chapter 510 of 1898, inflicts a penalty upon certain officials if they do not use in certain cases the standard ink, approved by the Secretary of the Commonwealth. It is to be hoped that the result will justify the law, and that it will be as faithfully tried in other places as it certainly will be in this office.

Other necessary legislation has failed to receive the approval of the Legislature. An act in regard to legal names and to changes in the Christian names of children, was rejected.

Although there seems to be no law to authorize the removal of entirely fictitious returns from the records of births, deaths and marriages, no relief was granted. I especially regret the loss of a bill providing for a special census in Boston, to record statistics respecting the families of present residents. As the Boston births are missing for the century prior to 1849, it seems most desirable to allow affidavits to be made by persons now living, and aged over fifty years, as to their parents, brothers and sisters and wives. Every year suffered to pass before the enactment of such a law, destroys a mass of evidence.

In the immediate future it will be necessary to enter upon a large measure of copying our defective records. The ink used in the early seventies is rapidly fading from the pages, and copies must be made. But the difficulty of doing this, either under civil-service rules or by contract, is very great, both as to the obtaining of suitable copyists and as to the cost.

I must renew my suggestion that the present law concerning the obtaining of death records is very defective, and should be amended.

#### PUBLICATIONS OF ANCIENT RECORDS.

Ten months ago I reported that two volumes of the Record Commissioners' Reports were in the printers' hands. Neither has yet been issued, the preparation and printing of the indices having required an unusual length of time. The second volume of Marriages (1751-1800) has been sent to the printer, and good progress has been made. About one-third of Aspinwall's Note Book is in type, but work on this is necessarily slow, the composition and proof-reading both calling for extreme accuracy. The volume of Suffolk Court Records has not yet advanced beyond the copy for the press.



FINANCIAL STATEMENT OF THE REGISTRY DE-  
PARTMENT FOR THE YEAR ENDING JANUARY  
31, 1898.

BOSTON, February 26, 1898.

HON. JOSIAH QUINCY,

*Mayor of the City of Boston :*

I beg leave to make the following report of the finances of this department, as the detailed account of the work cannot be completed for several weeks.

FINANCIAL STATEMENT.

Cash on hand February 1, 1897 (City Doc.	
No. 55) . . . . .	\$265 50
Appropriation for 1897 . . . . .	30,000 00
	<hr/>
	\$30,265 50

*Receipts.*

Received for Marriage Licenses, from February 1, 1897, to January 31, 1898, inclusive :

Nos. 522 @ 6,790, of 1897, = 6,269 certificates	
Nos. 1 @ 494, of 1898, = 494 "	
<hr/>	
6,763 " @ 50 c =	
	3,381 50
	<hr/>
	\$33,647 00
	<hr/>

*Expenditures.*

Salaries regular employees . . . . .	\$20,612 88
Collecting births of 1895 . . . . .	1,791 49
Binding records in office . . . . .	1,220 48
Printing and stationery . . . . .	1,319 88
Sundries . . . . .	1,053 85
Transfer by Auditor January, 1898 . . . . .	4,001 42
	<hr/>
	\$30,000 00
	<hr/>
<i>Carried forward</i> . . . . .	\$30,000 00

REGISTRY DEPARTMENT.

5

<i>Brought forward</i> . . . . .	\$30,000 00
Paid physicians for 12,905 births at 25c., reported from February 1, 1897, to February 1, 1898, as per vouchers paid in by me to the Auditor, viz. :	
February 1 to June 30, 1897 . . . . .	\$1,115 00
July 1 to October 31, 1897 . . . . .	1,053 50
November 1, 1897, to February 1, 1898 . . . . .	1,057 75
	<hr/>
	3,226 25
Cash paid City Collector, per voucher November 5, 1897 . . . . .	300 00
	<hr/>
	\$33,526 25
Cash balance February 1, 1898 . . . . .	120 75
	<hr/>
	<u>\$33,647 00</u>

Respectfully submitted,

WILLIAM H. WHITMORE,

*City Registrar.*





## APPENDICES.





## APPENDIX A

### NOTEWORTHY PERSONS WHO DIED IN BOSTON IN 1897.

DATE OF DEATH.			AGE.
1897.			
Jan.	1	Susan E. Page . . . . .	80
	1	Hannah Connolly . . . . .	85
	1	Charles F. Guild (Naval Officer) . . . . .	53
	1	Mitchell Lawrence . . . . .	77
	2	John Woods . . . . .	80
	2	William G. Wells (Rev.) . . . . .	63
	2	Ellen Leary . . . . .	80
	2	Paul Tenney . . . . .	80
	3	Mary McKee . . . . .	79
	3	Seth W. Merrill . . . . .	76
	5	Lucy Whittier . . . . .	86
	5	Francis A Walker (President M.I.T.) . . . . .	56
	5	Henry V. Degen (Rev.) . . . . .	83
	6	Catharine Jenkins . . . . .	84
	6	Victor Blutmann (Teacher) . . . . .	60
	7	Thomas Hussey . . . . .	83
	7	Emily A. Bruce (M.D.) . . . . .	60
	7	William S. Beaumont (M.D.) . . . . .	31
	7	Hannah M. Beck . . . . .	81
	8	Winsor Gleason . . . . .	80
	8	Lucy Goddard . . . . .	92
	8	Mary Sullivan . . . . .	83
	9	George Waugh (Rev.) . . . . .	66
	9	Edward E. Clextan (Rev.) . . . . .	34
	9	Benjamin S. Calef . . . . .	61
	9	Munroe Ayer . . . . .	75
	10	Casper Crowninshield . . . . .	59
	10	Bridget Russell . . . . .	90
	11	Evelina E. Slack . . . . .	76
	12	Francis W. Ryder . . . . .	75
	13	John L. Chenery . . . . .	78
	13	Phebe S. Dunham . . . . .	81
	13	John F. M. Brown . . . . .	80
	13	Susan F. Webber . . . . .	80
	14	Ann Maguire . . . . .	96
	14	William Vogel . . . . .	77
	15	George W. Goldsmith . . . . .	81
	15	James McMahon . . . . .	85
	15	Chauncy K. Bullock (ex-Councilman) . . . . .	58
	17	Lydia H. Shores . . . . .	90
	17	Ruth A. Bubier . . . . .	79
	18	Catherine Lally . . . . .	87
	19	Arthur D. Phelps . . . . .	79
	19	Samuel W. Walker . . . . .	82
	19	William W. Stickney . . . . .	74
	20	Catherine Garney . . . . .	82
	20	Elizabeth Haggerty . . . . .	85
	20	Michael Oates (Rev.) . . . . .	57
	21	Lucia A. D. Long . . . . .	81
	21	Marianne M. Ellison . . . . .	81
	21	Mary Faxon . . . . .	90
	23	Frances A. Browne . . . . .	79
	25	Lydia B. Hutchings . . . . .	75
	25	Ellen Kinworthy . . . . .	80



## DATE OF DEATH.

## AGE.

1897.

Jan.	26	Thomas B. Dean . . . . .	78
	26	Frederick W. Schreider . . . . .	78
	26	Miranda S. Emery . . . . .	83
	27	Mary S. King . . . . .	85
	27	Nancy S. Vose . . . . .	86
	27	Charles J. Vaughn (Paymaster.) . . . . .	52
	27	Morgiana M. McKenney . . . . .	77
	28	Susan M. Clarke . . . . .	84
	28	Mary Bennett . . . . .	78
	28	James Egan . . . . .	77
	29	Frances Lynch . . . . .	83
	29	Eliza M. Payne . . . . .	82
	29	Sally P. Meserve . . . . .	97
	29	Eugene O'Neil (ex-Policeman) . . . . .	74
	29	Isaac Lewis . . . . .	86
	29	Anna S. Cameron (Teacher) . . . . .	50
	30	Thomas J. Whidden . . . . .	79
	30	Ruhannah V. A. Brigham . . . . .	88
	31	Catharine McHale . . . . .	83
	31	Clara C. Cummings . . . . .	92
	31	James H. Nugent (ex-Alderman) . . . . .	64
	31	Marks Pettee . . . . .	81
Feb.	1	George Everett . . . . .	75
	1	Laura A. Loring . . . . .	88
	1	Paolo Zerga . . . . .	82
	1	Mary W. Brown . . . . .	82
	1	Leonard Pickering . . . . .	83
	3	Tabitha R. Simpson . . . . .	81
	3	Cornelius I. Wilby . . . . .	81
	3	Martha T. Estabrooks . . . . .	79
	3	Stillman A. Cole (M.D.) . . . . .	57
	4	Robert Howarth . . . . .	80
	4	Lydia B. Jenks . . . . .	85
	5	Dennis Grffin . . . . .	83
	5	Sarah Isaacs . . . . .	84
	6	George Lyon . . . . .	77
	6	Catherine Vickers . . . . .	80
	6	Samuel Davenport . . . . .	79
	7	Ann Bryson . . . . .	90
	7	Johanna Johnson . . . . .	85
	8	Martha A. Hall . . . . .	81
	8	Edgar Lincoln . . . . .	67
	9	George Patterson . . . . .	88
	9	Thomas Keyes . . . . .	72
	10	Henry Blanchard (M.D.) . . . . .	85
	10	Mary S. Edmunds . . . . .	79
	10	Sarah Blood . . . . .	82
	10	Martin King . . . . .	96
	11	Sarah L. Rowell . . . . .	88
	11	Archibald McLean . . . . .	87
	12	Eliza P. Holden . . . . .	85
	12	Harriet A. Seaward . . . . .	84
	12	Greeley S. Curtis . . . . .	66
	13	Charlotte L. Irving . . . . .	80
	13	Arad T. Sampson . . . . .	73
	15	Benjamin K. Brown . . . . .	75
	16	Alonzo Andrews . . . . .	81
	16	Ezekiel R. Jones . . . . .	79
	17	Lydia A. Atwood . . . . .	79
	18	Charles Le Row . . . . .	87
	18	Betsey D. Rich . . . . .	81

# REGISTRY DEPARTMENT.

11

DATE OF DEATH.

AGE.

1897.

Feb.	18	Sarah W. Hollister	.	.	.	.	.	.	.	84
	19	Philena Tenney	.	.	.	.	.	.	.	84
	19	Prudence S. Emery	.	.	.	.	.	.	.	78
	19	Sylvanus S. Clark	.	.	.	.	.	.	.	84
	20	William H. Horton	.	.	.	.	.	.	.	79
	20	Sarah M. Burr	.	.	.	.	.	.	.	88
	20	Serena D. Blanchard	.	.	.	.	.	.	.	82
	20	John Starratt	.	.	.	.	.	.	.	78
	20	Mary A. Dunn	.	.	.	.	.	.	.	78
	21	Mary G. Bosworth	.	.	.	.	.	.	.	80
	21	Mary C. Tappan	.	.	.	.	.	.	.	74
	21	Mary A. Buffington	.	.	.	.	.	.	.	80
	21	Carl Shaal	.	.	.	.	.	.	.	83
	21	William J. Corcoran (Rev.)	.	.	.	.	.	.	.	58
	21	Mary E. Shute	.	.	.	.	.	.	.	79
	22	Thaddeus Richardson	.	.	.	.	.	.	.	87
	22	Emily M. Herrick	.	.	.	.	.	.	.	88
	22	Robert J. Parker	.	.	.	.	.	.	.	81
	22	Sarah K. Hunnewell	.	.	.	.	.	.	.	83
	23	Sarah Rankin	.	.	.	.	.	.	.	86
	23	Ellen Lawler	.	.	.	.	.	.	.	84
	23	Bridget Flynn	.	.	.	.	.	.	.	94
	24	Elizabeth B. Welch	.	.	.	.	.	.	.	76
	24	William C. Nicholson	.	.	.	.	.	.	.	68
	25	Sarah Corbett	.	.	.	.	.	.	.	82
	25	Maria L. Snow	.	.	.	.	.	.	.	79
	25	Mary H. Furness	.	.	.	.	.	.	.	93
	26	Thomas W. Ricker	.	.	.	.	.	.	.	84
	26	Charles E. Allen	.	.	.	.	.	.	.	81
	26	Caroline Furness	.	.	.	.	.	.	.	88
	27	Isaac Wilder	.	.	.	.	.	.	.	80
	27	Samuel H. Jackson (M.D.)	.	.	.	.	.	.	.	52
	28	Nicholas Fardy	.	.	.	.	.	.	.	82
March	1	Leah Hale	.	.	.	.	.	.	.	81
	1	John J. Corcoran	.	.	.	.	.	.	.	83
	1	Margaret O'Brien	.	.	.	.	.	.	.	85
	2	Nancy Kilburn	.	.	.	.	.	.	.	87
	3	Dennis McCarthy	.	.	.	.	.	.	.	80
	3	David Foster	.	.	.	.	.	.	.	86
	4	Sarah C. Noyes	.	.	.	.	.	.	.	92
	4	Charles Rollins	.	.	.	.	.	.	.	84
	4	Edward Gallagher	.	.	.	.	.	.	.	78
	4	William A. Start	.	.	.	.	.	.	.	60
	5	Edward H. Pleadwell	.	.	.	.	.	.	.	94
	5	Ann Goodnow	.	.	.	.	.	.	.	86
	5	Lydia W. Taggert	.	.	.	.	.	.	.	88
	6	Abraham Goulston (Rev.)	.	.	.	.	.	.	.	94
	6	Hannah Hurley	.	.	.	.	.	.	.	88
	6	Aaron L. Herzberg (Teacher)	.	.	.	.	.	.	.	52
	6	Anna DeW. Fuller	.	.	.	.	.	.	.	78
	7	Mary Horgan	.	.	.	.	.	.	.	96
	7	Esther Benshimol	.	.	.	.	.	.	.	88
	7	Cyrus C. Atwell	.	.	.	.	.	.	.	80
	7	Salathiel N. Crossman	.	.	.	.	.	.	.	83
	7	John D. Lilley	.	.	.	.	.	.	.	70
	8	John Lapraik (M.D.)	.	.	.	.	.	.	.	38
	8	Thankful Whittier	.	.	.	.	.	.	.	82
	9	Mary Goodwin	.	.	.	.	.	.	.	87
	10	Mary A. Ellis	.	.	.	.	.	.	.	87
	10	Edwin Rice	.	.	.	.	.	.	.	82
	11	Sarah J. Yeaton	.	.	.	.	.	.	.	85





# REGISTRY DEPARTMENT.

13

DATE OF DEATH.

AGE.

1897.

April	10	Tryphosa P. Hebard	80
	12	Eunice Sterling	80
	12	John Larnard	80
	13	Harvey D. Hadlock (Lawyer)	53
	13	Ephraim W. Bouve	80
	13	John Orvis	80
	13	Sherman S. Case	88
	13	Hannah Giduz	80
	14	Ann G. Smith	85
	14	Maria F. Goodwin	78
	15	Israel Farrar	82
	15	Mary F. Rea	83
	16	William Glennon	85
	17	Phebe M. Holden	84
	17	Harriet Taber	94
	17	Henry D. Hyde (Lawyer)	58
	17	Margaret Seitz	85
	18	Nathan Hallett	82
	20	Thomas Williams	80
	21	Sarah J. Stevens	83
	21	Ann MacLellan	79
	22	James B. Clapp	84
	22	Samuel B. Livermore	90
	22	Nora Coughlin	85
	22	Susan M. Tucker	80
	23	Laura S. Cushing	78
	23	Elizabeth Mahoney	80
	24	Eliza A. Templeman	82
	24	Albert E. Proctor	70
	25	Lucy B. Lee	86
	26	Catherine McLaughlin	90
	26	Lucy L. Cutler	79
	26	Oliver Crocker	78
	27	Jeremiah Doherty	83
	27	Weston Winch	80
	27	Hannah Getchell	81
	28	Charles C. Andrews	78
	29	Elizabeth McCracken	83
	29	George B. Tilden	74
May	30	John Hannon	85
	1	John W. Gillespie	90
	2	Fanny Picchi	83
	2	Winifred Foley	88
	4	Lucinda M. Bowditch	84
	5	Sarah Garrity	80
	5	Peter Peterson	87
	5	Edmund Noonan	83
	6	J. Pierson Monroe (M.D.)	30
	7	Mary Kelly	89
	7	Julia Holloran	86
	7	Maria P. Rice	82
	8	John C. Paige (Insurance Agent)	54
	9	John H. Packard (Lawyer)	41
	10	Luke Foley	91
	10	Joseph T. Paget	52
	11	William Cogan	80
	11	Caroline A. Parker	79
	11	Mary E. Leary	83
	11	Mary A. Ayer	83
	11	George F. Daniels (Rev.)	38
	12	Louisa M. Swan	86





# REGISTRY DEPARTMENT.

15

DATE OF DEATH.

AGE.

1897.

June	11	Joshua T. Tucker . . . . .	84
	11	Mary A. Hickey . . . . .	79
	12	Sarah A. Rugg . . . . .	84
	12	Helen P. Thomas . . . . .	79
	12	Sarah F. Brown . . . . .	78
	13	Bridget Wilson . . . . .	84
	13	John Sullivan . . . . .	80
	13	Frederick J. McNulty (M.D.) . . . . .	62
	14	Joseph S. Fay . . . . .	84
	15	Cornelius Lee . . . . .	82
	15	Almarine Trowbridge . . . . .	85
	15	Mary A. Berry . . . . .	85
	23	Almira S. Hazeltine (Asst. Hospital Matron) . . . . .	77
	24	Joseph L. Wells . . . . .	82
	24	Sarah Atkinson . . . . .	84
	24	Albert Pope . . . . .	80
	25	David P. Matthews . . . . .	81
	25	Isaac Fenno . . . . .	74
	25	Catherine Baker . . . . .	85
	28	Eliza M. Pickering . . . . .	79
July	1	Lucy A. Hatch . . . . .	80
	1	Marietta L. Sumner . . . . .	81
	1	Maria P. Cushing . . . . .	79
	2	James Calnan . . . . .	95
	2	Mary Lawless . . . . .	84
	3	Ignatius P. Egan (Rev.) . . . . .	50
	4	Michael A. Sullivan . . . . .	83
	5	Hugh Geary . . . . .	86
	5	Maria Slager . . . . .	88
	6	Catherine Devlin . . . . .	80
	7	Elizabeth A. Capen . . . . .	90
	8	Almon S. Morse . . . . .	79
	9	Betsey H. Hill . . . . .	85
	9	Catherine Whitworth . . . . .	84
	10	John H. C. Tanck . . . . .	93
	10	Jane T. Metcalf . . . . .	95
	10	Martha McLean . . . . .	82
	11	Edwin Locke . . . . .	83
	12	Bridget Cuddy . . . . .	95
	13	Mary A. Sheridan . . . . .	83
	16	Delia Goodwin . . . . .	84
	16	Sarah E. King . . . . .	87
	19	Joseph B. Harris . . . . .	83
	20	John Ahrens . . . . .	82
	21	Caroline Fowle . . . . .	90
	22	John C. Hefler . . . . .	86
	23	Bridget Magee . . . . .	82
	23	E. Sewall Price . . . . .	85
	24	Daniel Murphy . . . . .	85
	24	Rhoda A. Hatch . . . . .	80
	25	Elizabeth Baxter . . . . .	82
	26	Dennis Sage . . . . .	79
	27	Ellen Condon . . . . .	86
	27	Edward Barlow . . . . .	87
	29	Patrick I. Grace . . . . .	80
	29	Edwin Battles . . . . .	83
	30	Ann D. Rogers . . . . .	81
	30	Oziba Randall . . . . .	80
	30	James Conniff . . . . .	86
	31	Minnie Nelson . . . . .	90
	31	John Bynner . . . . .	86



DATE OF DEATH.			AGE.
1897.			
July	31	James M. Le Mon . . . . .	83
Aug.	1	Thomas E. Scott . . . . .	81
	2	Otis Pease . . . . .	80
	3	Michael Malladay . . . . .	100
	4	Robert Gilbert . . . . .	90
	4	Nora W. Ellard . . . . .	97
	4	Angeline A. Teade (Missionary) . . . . .	66
	4	Emeline Brooks . . . . .	84
	6	Elizabeth Moran . . . . .	80
	6	Mary Delaney . . . . .	80
	7	Peter Randolph (Rev.) Colored . . . . .	72
	9	Mary Kelley . . . . .	85
	9	Margaret Cruikshank . . . . .	95
	11	Catherine Scheid . . . . .	80
	12	Mary R. Grueby . . . . .	85
	12	John C. Shecklton (Veterinary Surgeon) . . . . .	47
	13	Thomas M. Wetmore (Lawyer) . . . . .	48
	15	Rebecca W. Dearborn . . . . .	87
	16	John McNellis . . . . .	98
	17	Mary Little . . . . .	80
	17	Mary E. Wadsworth . . . . .	82
	18	Frederick N. Cheney . . . . .	51
	19	Melissa W. Pierce . . . . .	88
	21	James A. Quinn (M.D.) . . . . .	24
	21	Maria L. Clark . . . . .	82
	22	Thomas L. Jowett (Sculptor) . . . . .	64
	24	Nancy Smith . . . . .	86
	24	Ellen Finnen . . . . .	80
	26	Uriah H. Coffin . . . . .	74
	26	Charlotte T. Smith . . . . .	90
	26	Anne L. Bigelow . . . . .	80
	26	Leonard W. Jones . . . . .	81
	27	Patrick McGaragle . . . . .	85
	27	Tabitha Merrill . . . . .	88
	28	Mary Thomas . . . . .	85
	28	Ann M. Spellman . . . . .	80
	28	Amy T. Brown . . . . .	88
	28	Michael Collins . . . . .	88
Sept.	2	John E. Merrill . . . . .	78
	3	Aaron H. Bean . . . . .	83
	3	Joanna Hagerty . . . . .	87
	3	John P. Stewart (Rev.) . . . . .	61
	3	Jane Bisset . . . . .	81
	5	Rachel Hamilton . . . . .	92
	4	Cornelius Driscoll . . . . .	81
	4	Abraham Woolf . . . . .	79
	4	William H. Chessman . . . . .	74
	4	Wright W. Williams . . . . .	87
	6	Susan H. Gavett . . . . .	80
	7	Ann Hicks . . . . .	89
	8	John S. Rogers . . . . .	80
	9	Julia Murphy . . . . .	88
	9	Joseph S. Watson . . . . .	82
	10	Amelia Nolan . . . . .	85
	11	Harry Hinman . . . . .	79
	12	Eliza Holland . . . . .	91
	12	John Callender (Custodian Bostonian Society) . . . . .	72
	13	Elijah Learned . . . . .	86
	13	Mary D. Pierce . . . . .	81
	14	Mary Fitzgerald . . . . .	86
	17	Margaret Dolan . . . . .	91

# REGISTRY DEPARTMENT.

17

DATE OF DEATH.

AGE.

1897.

Sept.	19	Ellen Finn	82
	19	John Kelley (Building Inspector)	66
	20	Susan E. Eaton	88
	20	Isaac Dearborn	85
	20	Erastus W. Sanborn	90
	21	Mary Marchbank	85
	21	Sarah J. Bunton	81
	23	William Hammond	81
	23	Mary L. Richmond (M.D.)	79
	23	Mary E. Swan	82
	23	Sarah M. Colby	90
	23	Edward F. Mecuen	82
	24	Mary A. Todd	85
	24	Thomas C. Pazolt	87
	26	William W. Willard	87
	27	Laura A. Harmon	79
	29	Nancy W. B. Mudge	85
	29	Henry A. Dean	84
	29	Honora M. Burke	91
	30	Michael Ward	80
	30	Mary G. Call	82
Oct.	2	Ira L. Moore (M.D.)	72
	2	James Morse	82
	2	Marcella Plunkett	79
	2	Joseph Proctor (Actor)	81
	3	John Reisert	85
	3	Sally Aldrich	96
	4	Hannah Scally	83
	4	Phebe W. Emerson	79
	5	Salome Wood	89
	5	Hannah Allan	87
	5	Mary A. McIntosh	87
	7	Antipas Newton	80
	8	Sabrina K. Aldrich	85
	8	Mary Jacobs	92
	10	Priscilla P. Mansfield	94
	10	John Pierce (Assessor)	62
	10	Hannah Doherty	80
	12	Charles Gilbert	80
	13	Frances B. James	83
	13	Eliza A. Gorham	90
	13	Samuel B. Holmes	82
	15	Henry C. Myers	85
	15	Cecilia W. Doudiet	81
	17	Israel S. Trafton	78
	17	Martin F. Brigham	88
	17	Betsey N. Baker	78
	18	Ellen Loftus	82
	19	John Foster (Professor)	86
	20	Betsey D. Haselton	90
	20	Gardner S. Cheney (Druggist)	69
	21	Paula Vacarezza	81
	21	Jane Anderson	90
	21	Jane B. Doe	82
	21	Samuel T. Cobb (Editor)	72
	24	Carmalo Soracio	85
	24	Mary Learned	82
	25	Keziah G. Arnold	81
	27	John H. Ellis (Veterinary Surgeon)	69
	29	Alonzo Josselyn	70
	29	William G. Harris	69



DATE OF DEATH.			AGE.
1897.			
Oct.	29	George F. Suck . . . . .	77
	31	Mary E. Parmlee . . . . .	79
	31	Mary A. Grafton . . . . .	80
	31	Clarissa S. Holland . . . . .	88
Nov.	1	Ellen Kelley . . . . .	85
	1	Harriet T. Ward . . . . .	78
	1	Mary A. Batchelder . . . . .	57
	2	Albert J. Pratt (Lawyer) . . . . .	40
	4	James L. Ditson . . . . .	84
	4	George Bradford . . . . .	88
	4	Johannah Peterson . . . . .	81
	6	George S. Curtis . . . . .	88
	6	Julia B. H. James . . . . .	86
	7	Charles Chadbourne . . . . .	85
	8	Lucy H. Dexter . . . . .	87
	9	Rosanna Hammond . . . . .	83
	15	Bridget Powers . . . . .	80
	15	Catherine Coughlin . . . . .	80
	15	Adelia H. Collins . . . . .	85
	15	Abby L. Bennett . . . . .	82
	16	Mary A. Connelly . . . . .	80
	16	Henry W. Matthes . . . . .	78
	17	Oliver O. Austin . . . . .	82
	17	Sarah H. Lane . . . . .	87
	18	Seviah B. Wetherbee . . . . .	80
	18	Ruth E. Clark . . . . .	79
	18	Hiram Whitman . . . . .	83
	18	William Nicholls . . . . .	82
	18	Ellen Healy . . . . .	90
	19	Mary A. Robinson . . . . .	84
	19	Edward R. Hall . . . . .	77
	19	Conrad Stoeckel . . . . .	87
	20	Mary Carey . . . . .	80
	21	Horace T. Field . . . . .	78
	22	William Patterson . . . . .	89
	22	Mary Quinn . . . . .	90
	23	Michael O'Connor . . . . .	80
	23	James Jones . . . . .	97
	24	Micah Dyer, Jr. (Lawyer) . . . . .	68
	25	Caroline Friedrich . . . . .	86
	27	Henry Minton . . . . .	79
	28	Albert A. Lane . . . . .	78
	29	Jabez B. Cole (Undertaker) . . . . .	58
	30	William E. James . . . . .	74
	30	Sarah B. Homans . . . . .	83
	30	Daniel Robinson . . . . .	78
	30	Susan Wesson . . . . .	100
Dec.	1	Alexander B. Canning (Court Messenger) . . . . .	51
	3	Mary R. Boyd . . . . .	81
	4	Patrick Kelley . . . . .	80
	5	Sarah M. Crehoe . . . . .	87
	6	Mary Gardner . . . . .	81
	6	Jane Jones . . . . .	89
	6	Francis A. Smith (Rev.) . . . . .	53
	6	Susan Hutchinson . . . . .	85
	7	Michael O. Boyle . . . . .	85
	7	Mary Dowd . . . . .	83
	8	Hannora Carroll . . . . .	84
	8	James Hayes . . . . .	87
	8	Leonard Day . . . . .	80
	9	Ann Ferguson . . . . .	80

# REGISTRY DEPARTMENT.

19

DATE OF DEATH.

AGE.

1897.

Dec.	9	Elizabeth Fisher	88
	10	Joseph Barnes	84
	11	Mary H. Field	87
	11	Johanna Ellard	87
	11	Harriet S. Allen	83
	12	Hannah Hulihan	88
	12	Frederick Goetz	82
	12	George G. Farley	82
	12	Mary Farracy	84
	12	John Jeffries	73
	12	Isaac Ayling	81
	13	Olivia J. Lewis	80
	13	Benjamin C. Bowker	79
	15	Edward Kelley	79
	15	James M. Severance	83
	16	Maria Ventullo	83
	17	Elizabeth Munroe	74
	18	Owen A. Galvin (Lawyer)	44
	18	Elizabeth Hefentrager	90
	18	Roxana B. Currier	89
	21	Martha Briggs	84
	21	Elizabeth W. Blanchard	83
	21	Eliza Harrington	79
	25	Harry W. Howell (M.D.)	28
	25	Katharine Jenkins.	86
	26	Hannah M. Wetsell	84
	27	Ann Keegan	89
	27	Dennis Shields	80
	27	Charles H. Betteley (Superintendent)	45
	28	Vogel Boas	83
	28	John C. Lord	83
	28	Thomas H. Badger (Artist)	77
	30	Martha L. Jenkins	80
	31	Lucy Whittemore	79
	31	John Lawler	82

## *Residents of Boston who died elsewhere.*

Jan.	2	Clement C. Moriarty (Medfield)	77
	20	Roderick Walsh (Somerville)	80
	28	Marshall P. Eayrs (M.D.), (Foxboro)	51
Feb.	20	William H. Cundy Assistant Assessor (Tampa, Fla.)	65
Mar.	5	Harriet Glidden (Taunton)	82
	18	Charlotte M. E. S. Le Cain (Hyde Park)	80
April	3	Colin M. Edwards (Worcester)	91
	11	George R. Fowler, Lawyer (Philadelphia)	52
	15	James J. Storrow, Lawyer (Washington)	—
	27	Henry R. Merrill (Hot Springs, Va.)	—
May	21	Ernest B. Chenoweth, Editor (Leicester)	31
July	31	Charles H. Thayer (Revere)	45
Aug.	6	William Murray (Montague)	80
	13	Nancy Rindge (Medfield)	80
	13	Nahum Chapin (Phillips Beach)	77
Sept.	22	Simpson C. Bixby (Westboro)	80
	28	George Jackson (Westboro)	76
Dec.	4	Walter M. Wilson, M.D. (Cambridge)	89





## APPENDIX B.

## INTRODUCTION.

For many reasons it seems desirable to collect in chronological arrangement, the laws relating to marriages and the registration thereof, from the date of the establishment of the Commonwealth.

The history of the marriage laws prior to that date has been admirably set forth by Chief Justice HORACE GRAY of our Supreme Court, in the case of *Commonwealth v. Munson*, decided in Oct., 1879, and reported in 127 Mass. Reports.

With the consent of the Reporter of Decisions, the opinion is given in full.

W. H. W.

OPINION OF THE SUPREME COURT IN THE CASE OF  
COMMONWEALTH v. MUNSON.

GRAY, C. J. In Massachusetts, from very early times, the requisites of a valid marriage have been regulated by statutes of the Colony, Province, and Commonwealth; the canon law was never adopted; and it was never received here as common law, that parties could by their own contract, without the presence of an officiating clergyman or magistrate, take each other as husband and wife, and so marry themselves. *Milford v. Worcester*, 7 Mass. 48, 53. 2 Dane Ab. 291, 301. 2 Winthrop's Hist. New England, 43. This clearly appears on tracing the history of the legislation upon the subject; the whole of which, whether repealed or unrepealed, is by a familiar rule to be considered in ascertaining the intention of the Legislature. *Church v. Crocker*, 3 Mass. 17, 21. *Eaton v. Green*, 22 Pick. 526, 531. *Commonwealth v. Bailey*, 13 Allen, 541, 545.

As early as 1639, it was "ordered and declared" by the General Court, "that there be records kept of the days of every marriage, birth and death of every person within this jurisdiction." 1 Mass. Col. Rec. 276. Anc. Chart. 43. In 1642, it was enacted that "the magistrates and other persons appointed to marry shall yearly deliver to the recorder of that court which is nearest to the place of their habitation the names of such persons as they have married, with the days, months and years of the same; and the said recorders are faithfully and carefully to enrol such marriages as shall thus be committed to their trust;" and in 1644,



every new-married man was required "to bring in a certificate of his marriage, under the hand of that magistrate which married him, to the clerk of the writs," to be recorded. 2 Mass. Col. Rec. 15, 59. Mass. Col. Laws (ed. 1660) 68; (ed. 1672) 130. Anc. Chart. 181.

The requisite of solemnization before a magistrate or other authorized person, as essential to constitute a valid marriage, which had been clearly implied in these statutes, was distinctly expressed in the following statute of 1646: "As the ordinance of marriage is honorable amongst all, so should it be accordingly solemnized. It is therefore ordered by this Court and authority thereof, that no person whatsoever in this jurisdiction shall join any persons together in marriage, but the magistrate, or such other as the General Court or Court of Assistants shall authorize in such place where no magistrate is near. Nor shall any join themselves in marriage, but before some magistrate or person authorized as aforesaid. Nor shall any magistrate, or other person authorized as aforesaid, join any persons together in marriage, or suffer them to join together in marriage in their presence, before the parties to be married have been published according to law." Mass. Col. Laws (ed. 1660) 52; (ed. 1672) 102. Anc. Chart. 152.

In 1656 and 1658, the "commissioners for ending small causes in the several towns where no magistrate dwells" were "authorized and empowered to solemnize marriage between parties legally published;" "and all other commissions in this case are hereby made void." 4 Mass. Col. Rec. pt. i. 255, 322. Anc. Chart. 152. The provision of the St. of 1646, prohibiting persons to join themselves in marriage, except before a magistrate or other authorized person, continued in force throughout the period of the colony charter.

By the Prov. St. of 1692-3 (4 W. & M.) c. 25, "every justice of the peace within the county where he resides, and every settled minister in any town, shall and are hereby respectively empowered and authorized to solemnize marriages, within their respective towns and counties, betwixt persons that may lawfully enter into such a relation, having the consent of those whose immediate care and government they are under, and being likewise first published" as therein directed; and "every justice and minister shall keep a particular register of all marriages solemnized before any of them, and make a return thereof" quarterly to the clerk of the sessions of the peace of the county, to be by him registered. 1 Prov. Laws (State ed.) 61. Anc. Chart. 242.

By the Prov. St. of 1695-6 (7 W. III) c. 2, § 4, "for the better preventing of clandestine marriages," it is enacted that "no person other than a justice of the peace, and that within his own county only, or ordained minister, and that only in the town where he is settled in the work of the ministry, shall or may presume to join any persons together in marriage; nor shall any justice or minister join any person in marriage other than such one or both of whom are inhabitants or residents in such county or town respectively;" with more specific provisions as to publication of banns and consent of parents and guardians, and a further provision that any justice, minister or other person offending

against this act shall suffer a penalty, and be "forever after disabled to join persons in marriage," and be also liable to an action by the parent or guardian. 1 Prov. Laws, 209, 210. Anc. Chart. 283.

By the Prov. St. of 1716-17 (3 Geo. I.) c. 16, after reciting in the preamble the principal passage above quoted from the act of 1695-6, it is enacted that "the power granted ministers to join persons together in marriage be hereby enlarged, so as that where there shall be no settled ordained minister in any town or precinct, or where the only settled ordained minister of any town or precinct is himself to be married, it shall and may be lawful in such cases for the next settled ordained minister in another town within the same county to join in marriage the minister, or inhabitants of such town or precinct destitute of such settled ordained minister, if such minister or inhabitants desire it, according to the rules prescribed by the laws of this Province for the consummating marriages;" and penalties are imposed on ministers and clerks neglecting to return or record marriages. 2 Prov. Laws, 60. Anc. Chart. 416.

So by an act of 1773 (13 Geo. III.) the authority of each minister of the Church of England within the Province to join persons in marriage, (which had previously been limited to persons belonging to the town in which the minister himself dwelt,) was not only extended to include persons usually worshipping with him and whose ministerial taxes he had a right by law to receive, although not belonging to the same town; but it was enacted that "where any minister of the Church of England is himself to be married, or where such minister shall be removed by death or otherwise, so that the religious society of Christians in which he presided shall be destitute of a minister, it shall be lawful in such cases for the next minister within the Province of the same denomination to join in marriage the minister, or any of the people constituting such religious society who may lawfully enter into such a relation." Mass. Perpetual Laws (Supplts. to ed. 1759) 632. Anc. Chart. 679.

These statutes plainly signify that by the law of the Province even a minister, authorized to solemnize marriages between other persons, could not marry himself.

The only other statutes of the Province which have come to our notice are one of 1727 (1 Geo. II.) providing for the publication of banns of persons residing in places where there was no town clerk, and one of 1763 (3 Geo. III.) concerning the powers of ministers whose parishes were made out of two or more adjacent towns. 2 Prov. Laws, 464. Mass. Perpetual Laws (Supplts. to ed. 1759) 444. Anc. Chart. 462, 655.

The Province laws on this subject remained in force until after our Revolution; and it was before they had been changed by any statute of the Commonwealth that the marriage took place, the validity of which was brought in question in the leading case of *Milford v. Worcester*, 7 Mass. 48. In that case it appeared that in 1784 a man and a woman went together into a room where a justice of the peace happened to be, and in his presence, and before other witnesses, after producing a cer-



tificate that their intentions of marriage had been published the man declared that he took the woman as his lawful wife, and she declared that she took him as her lawful husband, and each made to the other the vows and promises usual in contracting marriages ; but upon the question whether this proceeding was directed and encouraged by the justice the evidence was conflicting. It was ruled by Mr. Justice (afterwards Chief Justice) Sewall at the trial, and held by the full court in an elaborate judgment delivered by Chief Justice Parsons, that, if the proceeding had not the sanction of the justice as a magistrate, the marriage was void, and neither the woman nor her children took the settlement of the man. The position that the marriage, though not solemnized pursuant to the statutes, was yet a lawful marriage, had between parties competent to contract marriage, and not declared void by any statute, was fully argued and considered ; and the court, while admitting the strength of that position in States the laws of which had prescribed no regulations for the celebration of marriages, was clearly of opinion that the provisions of our statutes, by necessary implication, prohibited persons from solemnizing their own marriages by any form of mutual engagement, or in the presence of any witnesses whatever.

The St. of 1786, c. 3, manifested no intention to change the law in this respect. While it expressly repealed all former laws relating to the solemnization of marriages, it substantially reënacted many of their provisions. It empowered justices of the peace within their counties, and stated and ordained ministers within their towns or parishes, to solemnize marriages ; provided that, when any such minister was himself to be married, it should be lawful for any other such minister within the same county to marry him ; required “all persons desiring to be joined in marriage” to have their intention published, and to “produce to the justice or minister who shall be desired to marry them” a certificate of such publishment ; obliged justices and ministers to keep records and make returns of the marriages solemnized by them ; and made persons illegally solemnizing marriages, or neglecting to make returns, subject to penalties, and to be thereafter disqualified from joining persons in marriage.

It also contained a new provision declaring marriages which had been or should be had and solemnized among Quakers or Friends, in the manner and form used and practised in their societies, to be good and valid in law, and requiring the clerk or keeper of the records of the meeting at which such marriages should be had and solemnized to make returns thereof. St 1786, c. 3, § 7. This section, Chief Justice Parsons tells us, was enacted in consequence of the general opinion of lawyers that such marriages were void before. *Milford v. Worcester*, 7 Mass. 56.

The St. of 1786 (after being amended in some unimportant particulars by the Sts. of 1795, c. 7, 1817, cc. 61, 141, and 1820, c. 55) was repealed by the St. of 1834, c. 177, which contained similar provisions, but allowed resident ministers to solemnize marriages throughout the Commonwealth, and therefore omitted as unnecessary the specific pro-

vision of former statutes as to the marriage of ministers, and also declared — thereby clearly implying that some solemnization beyond the mere contract of the parties was considered essential — that “all marriages, between persons who might lawfully enter into that relation, heretofore solemnized by any justice or minister, be and they hereby are confirmed and made valid in law, although such justice or minister may have exceeded his authority or jurisdiction.”

In the Rev. Sts. c. 75, the provisions of the previous statutes are substantially reënacted, and the following section [§ 24] is added: “No marriage, solemnized before any person professing to be a justice of the peace, or a minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, on account of any want of jurisdiction or authority in such supposed justice or minister, or on account of any omission or informality in the manner of entering the intention of marriage, or in the publication of the banns; provided, that the marriage be in other respects lawful, and be consummated with a full belief, on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.” Rev. Sts. c. 75, § 24.

The object of this section, as declared in the Report of the Commissioners who framed it, was to adopt the principle stated in *Milford v. Worcester*, that a marriage would be lawful, if solemnized before a justice or minister, although without publication of the banns and without the consent of parents or guardians; and to extend that principle so as to prevent marriages from being invalidated on account of some defect, not known or suspected by either party, in the ordination of the minister or the commission of the justice in whose presence the marriage ceremony was performed. That the Commissioners understood the presence of some person, being or believed to be a magistrate or minister, to be necessary to the validity of every marriage of persons other than Quakers in this Commonwealth, clearly appears by their concluding sentence: “The essence of the contract is the assent of the parties; and if this assent is formally and solemnly given in the presence of one who is acting as a justice or minister, and who is honestly believed to be qualified as such, it furnishes all the security against fraud and surprise, which the law was designed to provide for.”

The existing laws upon the subject are mostly contained in the Gen. Sts. c. 106; and the only modification since the Rev. Sts. that is worthy of notice is that by which, where the fact of marriage is required to be proved before any court, evidence of the admission of that fact by the defendant, or of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence, is made competent. Sts. 1840, c. 84; 1841, c. 20. Gen. Sts. c. 106, § 22. Evidence of the kind here mentioned is simply made competent, not controlling when the whole truth appears.

Under all changes in the form of the statutes it has always been assumed in this Commonwealth, and in the State of Maine, which was originally a part thereof, that (except in the single case of Quakers, or



Friends, whose marriages are made valid by a special provision limited to that sect, and, though not solemnized by any magistrate or minister, are witnessed, recorded, and returned by the principal officer of the meeting at which the ceremony is performed) a marriage which is shown not to have been solemnized before any third person, acting or believed by either of the parties to be acting as a magistrate or minister, is not lawful or valid for any purpose. *Medway v. Needham*, 16 Mass. 157, 159. *Commonwealth v. Spooner*, 1 Pick. 235. *Meyers v. Pope*, 110 Mass. 314, 316. *Thompson v. Thompson*, 114 Mass. 566, 567. St. 1879, c. 116. *Brunswick v. Litchfield*, 2 Greenl. 28. *Ligonia v. Buxton*, 2 Greenl. 102. *State v. Hodgskins*, 19 Maine, 155. *State v. Bowe*, 61 Maine, 171, 177. See also *Dunbarton v. Franklin*, 19 N.H. 257, 266; *Northfield v. Plymouth*, 20 Vt. 582, 591; *Goshen v. Stonington*, 4 Conn. 209, 219; *Bashaw v. State*, 1 Yerger, 177; *Dennison v. Dennison*, 35 Md. 361.

It is proper, however, to notice more particularly the Massachusetts cases, on which the defendant's counsel relied.

The case decided by the Superior Court of Judicature of the Province in 1758, and cited in Quincy's Reports, 29, note, appears by the record there referred to, to have been as follows: Flora, a negro woman, was indicted on the Prov. St. of 1696 (8 W. III.) c. 11, "to prevent the destroying and murdering of bastard children," which had this preamble: "Whereas many lewd women that have been delivered of bastard children, to avoid their shame and escape punishment, do secretly bury or conceal the death of their children, and after, if the child be found dead, the said women do allege that the said child was born dead, whereas it falleth out sometimes (though hardly it is to be proved) that the said child or children were murdered by the said women their lewd mothers, or by their assent or procurement," and which therefore enacted that any woman who should be delivered of a child "which, if it were born alive, should by law be a bastard," and endeavor to conceal the death thereof, whether it were born alive or not, should suffer death as in case of murder, unless she could prove that the child was born dead. 1 Prov. Laws, 255. Anc. Chart. 293. The indictment alleged, in the usual form of an indictment for murder, that the defendant threw her child alive into a vault and immersed it in the water and excrements therein, and thereby drowned and suffocated it. The jury, by special verdict, found "that the said Flora is and from her nativity has been a negro slave; that she was never married according to any of the forms prescribed by the laws of this land, but that the person supposed to be the father of the said child was also a slave, and had kept her company with her master's consent for above a year and a half before that she was delivered alone of the female child mentioned in the indictment, and thrust the same child into the vault and under the excrements and water, and that the same child was taken out dead therefrom, and that, by means of her so immersing the said child and concealing the death thereof, it cannot be known whether the said child was born dead or alive;" and the jury found the defendant

guilty or not guilty, according to the opinion of the court upon the question whether "the said female child, had it been born alive, would have been a bastard, within the meaning and design of" the statute on which the indictment was founded. "After mature advisement upon the said verdict, the court are of opinion that the said Flora is not guilty." Flora's case, Rec. 1758, fol. 295. We have no report of the grounds of that opinion; but it may well be that the court thought that so highly penal a statute, changing the ordinary rule as to burden of proof in criminal cases, should be strictly construed, and that the case was not within the evil which it was intended to prevent, as expressed in the preamble.

In *Parton v. Hervey*, 1 Gray, 119, it was decided, 1st, that the age of consent in this Commonwealth, as by the common law of England, was fourteen in males and twelve in females; and 2d, that the Prov. St. of 1695-6 (7 W. III.) c. 2, the Sts. of 1786, c. 3, and 1834, c. 177, and the Rev. Sts. c. 75, §§ 15, 19, prohibiting justices and ministers, under a penalty, from solemnizing marriages of males under twenty-one or of females under eighteen, without the consent of their parents or guardians, did not make void the marriage of a girl thirteen years old, solemnized by a justice or minister without such consent. The decision on the first point finds additional and conclusive support in the Prov. St. of 1694-5 (6 W. & M.), c. 5, § 5, which defined the age of consent to be in "the man fourteen years of age, the woman twelve." 1 Prov. Laws, 172. Anc. Chart. 278. 2 Dane Ab. 301. The decision on the second point was in exact accordance with the statement of Chief Justice Parsons in *Milford v. Worcester*, referred to in the Commissioners' Report on the Revised Statutes, as already mentioned, that "when a justice or minister shall solemnize a marriage between parties who may lawfully marry, although without publication of the banns of marriage, and without the consent of the parents or guardians, such marriage would unquestionably be lawful, although the officer would incur the penalty of fifty pounds for a breach of his duty." 7 Mass. 54, 55. The general statement of Mr. Justice Bigelow in the course of his discussion of this point — that, "in the absence of any provision declaring marriages, not celebrated in the prescribed manner, or between parties of certain ages, absolutely void, it is held that all marriages, regularly made according to the common law, are valid and binding, although had in violation of the specific regulations imposed by statute" — evidently had regard to the effect of specific regulations as to the publication of banns or the consent of parents, and not to the broader question, which was not before him, whether any presence of a third person was necessary. If the learned judge had intended to cast any doubt on the adjudication of that question in *Milford v. Worcester*, he would hardly have referred, as he did, to that case as supporting his statement. 1 Gray, 122.

In *Meyers v. Pope*, 110 Mass. 314, there was evidence that the parties went before a person whom they supposed to be a justice of the peace of the county, with the intent on the part of both to contract marriage



before him; that in his presence and hearing the man said that the woman was his wife; and that they afterwards cohabitated together, believing themselves to have been then and thereby lawfully married. The extent of the decision, as stated by Chief Justice Chapman, was that the provision of the Rev. Sts. c. 75, § 24, and the Gen. Sts. c. 106, § 20, already quoted, (by which the law as declared in *Milford v. Worcester*, has been so far modified as to make a marriage before a justice or minister, believed by either of the parties to be authorized, as valid as if he were in fact authorized to solemnize the marriage,) should by a liberal construction be held to include a case “where the parties go before a magistrate or minister, make a marriage contract in some form in his presence, in the belief that he sanctions and assents to it in his official capacity, and cohabit as husband and wife afterwards, believing that they are legally married, though the magistrate understands the matter differently, and does not intend to act officially in the matter.” 110 Mass. 316,

The presence of a person officiating, or at least believed to be officiating, as a justice or minister being (except in the case of Quakers) clearly required, according to a long course of legislative action and of judicial opinion, to constitute a valid marriage in this Commonwealth, it would be superfluous to examine the English decisions, or the cases cited at the argument showing that a different rule prevails in some other parts of the Union. Whether it is wise and expedient so to change the law of Massachusetts as to allow an act, which so deeply affects the relations and rights of the contracting parties and their offspring, to become binding in law by the mere private contract of the parties, without going before any one as a magistrate or minister, is a matter for legislative, and not for judicial consideration.

In the case before us, it appearing from the undisputed facts that, in the ceremony performed by the defendant and the woman with whom he has since cohabited, no third person participated or was understood or expected to participate in any way, and no civil magistrate or minister of the gospel, nor any person believed to be such, was present, and neither party was a Friend, or Quaker, it was rightly ruled in the Superior Court that no lawful or valid marriage between the parties had taken place.

But it does not follow that the conviction was warranted by the evidence before the jury. *Milford v. Worcester*, 7 Mass. 57. Sedgwick, J., in *Mangue v. Mangue*, 1 Mass. 240, 242. To support an indictment against a man for adultery, it is sufficient to prove sexual connection between him and the wife of another man. *Commonwealth v. Elwells*, 2 Met. 190. To support an indictment for bigamy or polygamy, it is sufficient to prove that the defendant, being at the time lawfully married to one person, has married another. *Commonwealth v. Mash*, 7 Met. 472. *Reynolds v. United States*, 98 U.S. 145. But to support this indictment on the Gen. Sts. c. 165, § 6, it is necessary to prove not only that a man and a woman, “not being married to each other,” “cohabited together,” but that they so cohabited “lewdly and lascivi-

ously," — implying an evil intent, which cannot be inferred from the mere fact (such as was proved at the trial) of cohabitation under an honest, though mistaken, belief that the parties were lawfully married to each other. *Commonwealth v. Hunt*, 4 Cush. 49. If there were evidence that the cohabitation was under such circumstances as to create a common scandal, or tend to corrupt the public morals, the case might be different. See *Commonwealth v. Calef*, 10 Mass. 153; *Grisham v. State*, 2 Yerger, 589; *State v. Moore*, 1 Swan, 136.

*Verdict set aside.*

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## LEGISLATION UNDER THE COMMONWEALTH.

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### CHAPTER 69 OF ACTS OF 1785.

#### AN ACT FOR REGULATING MARRIAGE AND DIVORCE.

SECTION 1. *BE it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That no man or woman shall intermarry within the degrees hereafter named, that is to say :*

No man shall marry his mother, grandmother, daughter, son's daughter, daughter's daughter, step-mother, grandfather's wife, son's wife, son's son's wife, daughter's son's wife, wife's mother, wife's grandmother, wife's daughter, wife's son's daughter, wife's daughter's daughter, sister, brother's daughter, sister's daughter, father's sister, mother's sister.

No woman shall marry her father, grandfather, son, son's son, daughter's son, step-father, grandmother's husband, daughter's husband, son's daughter's husband, daughter's daughter's husband, husband's father, husband's grandfather, husband's son, husband's son's son, husband's daughter's son, brother, brother's son, sister's son, father's brother, mother's brother.

And if any man or woman shall intermarry within the degrees aforesaid, every such marriage shall be deemed, taken and adjudged incestuous, and shall be null and void; and the issue of all such incestuous marriages shall be deemed, taken and adjudged illegitimate, and be subjected to all the legal disabilities of such issue.

SECT. 2. *And be it further enacted by the authority aforesaid, That all marriages, where either of the parties shall have a former wife or husband living at the time of such marriage, shall be absolutely void, and no dower shall be assigned any widow in consequence of such marriage; and the issue thereof shall be deemed, taken and adjudged illegitimate, and be subject to all the legal disabilities of such issue.*



## CHAPTER 3 OF ACTS OF 1786.

## AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That every Justice of the Peace, within the county where he resides, and every stated and ordained minister of the gospel in the town, district, parish or plantation, where he resides, shall be and hereby is authorized and empowered to solemnize marriages between persons that may lawfully enter into that relation, when one or both of the persons to be married, belong to, or are residents in the county where such justice resides, or one or both of them are inhabitants of, or residents in the town, district, parish, or plantation where such minister resides.

SECT. 2. *And be it further enacted by the authority aforesaid,* That when any settled and ordained minister of the gospel is himself to be married, it shall be lawful for any other such minister within the same county, to marry the said minister. And also, when any religious society shall be destitute of a settled and ordained minister of the gospel, in case there shall not be such a minister within the town, district or plantation in which such religious society is, it shall be lawful for any such minister, within the same county, to join any person of such town, district or plantation, in marriage: *Provided* such marriage be solemnized in the town, district or plantation where one of the parties to be married shall reside.

SECT. 3. *And be it further enacted by the authority aforesaid,* That all persons desiring to be joined in marriage shall have such their intentions published at three public religious meetings, on different days, at three days' distance exclusively at least from each other, in the town or district, wherein they respectively dwell, or shall have their intentions of marriage posted up by the clerk of such town or district, by the space of fourteen days, in some public place, within the same town or district, fairly written, and shall also produce to the justice or minister, who shall be desired to marry them, a certificate of such publishment, under the hand of the clerk of such town or district respectively; and also, that the intention of marriage hath been entered with him fourteen days, prior to the date of such certificate; and where a male, under twenty one years, or a female under eighteen years of age, is to be married, the consent of the parent, guardian or other person, whose immediate care and government such party is under, if within the Commonwealth, shall be first had to such marriage. And in case the parties or either of them live in a town, district or place where there shall be no clerk, then publishment shall be made in the town or district next adjoining, in manner aforesaid, and a certificate from the clerk of the same town or district, of such publishment, and of the entry of their intentions of marriage as aforesaid, shall be produced as aforesaid, previous to their marriage. *Provided,* That in regard to any plantation in the counties of Cumberland and Lincoln, where the parties, not under the respective ages aforesaid, shall have been inhabitants for the space of twelve months, and shall live twenty miles' distant from such next adjoining town or district, any justice or ordained minister belonging to this Commonwealth, may join them in marriage without such certificate.

SECT. 4. *And be it further enacted by the authority aforesaid,* That if, at any time, the banns of matrimony betwixt any persons shall be forbidden, and the reasons thereof assigned, in writing, by the person so forbidding the same, left with the town or district clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall have been duly inquired into, and determined before two justices of the same county, *quorum unus*: *Provided*, the person forbidding the banns shall, within seven days after filing the reasons as aforesaid, apply unto two justices as aforesaid, and procure their determination thereon; unless the said justices shall certify unto the said clerk, that a further time is necessary for their determination on the reasons filed; in which case the clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the justices shall sooner determine; according to whose determination, the clerk shall govern himself herein; and if the said justices shall determine, that the reasons assigned by the person forbidding the said banns, were not supported by the laws of the Commonwealth, then the person so forbidding shall pay all the cost that may have arisen in consequence of such objection; and the said justices shall make up judgment and issue execution accordingly.

SECT. 5. *And be it further enacted by the authority aforesaid,* That if any person shall deface or pull down any publishment posted up, in writing, as aforesaid, before the expiration of the said fourteen days, he shall forfeit and pay the sum of twenty shillings, to the use of the town; and if unable to pay the said fine, may be set in the stocks for the space of one hour. And if any Justice of the Peace or minister shall, otherwise than is expressly allowed and authorized by this Act, join any persons in marriage, they shall severally forfeit and pay the sum of fifty pounds, two third parts thereof to and for the use of the county wherein the offence may be committed, and the residue to the prosecutor, to be sued for and recovered in the Court of Common Pleas, within the same county, by the treasurer thereof, who is hereby enjoined, upon due information thereof, to prosecute and sue for the said penalty, without delay, or by the parent, guardian or other person under whose immediate care and government either of the parties were at the time of such marriage; and every justice or minister, against whom such recovery shall be had, is hereby forbidden from joining persons in marriage forever after. And in case a person forbid as aforesaid, or any other person whatever, not authorized and empowered to solemnize marriages by this Act, shall join any persons in marriage, and be convicted thereof in the Supreme Judicial Court, upon presentment or indictment, he shall stand one hour in the pillory, and be subjected to pay a fine, at the discretion of the court, to the use of the Commonwealth, not exceeding one hundred pounds, nor less than eighty pounds.

SECT. 6. *And be it further enacted,* That every justice and minister shall make and keep a particular record of all marriages solemnized before them respectively; and in the month of April, yearly, and every year, shall make a return to the clerk of the town, district or plantation in which he lives, certifying the names (both Christian names and surnames) of all the persons who have been by them respectively joined together in marriage within the year then last past, if any such have been by them so joined together.

[And if it shall so happen, that any one or more of the said justices or ministers shall not have joined together in marriage any persons during the course of the year then last past, it shall be the duty of such justice or minister also to certify to the said town-clerk, in writing, under his hand, that he has not joined any persons in marriage within the course of the said year:] *Repealed 1795, ch. 7.*

And if any justice or minister shall neglect to make such return, within the month of April, annually, the clerk of the town, district or plantation, where such delinquent justice or minister lives, shall, without



delay, certify such neglect to the clerk of the Court of General Sessions of the Peace of the same county, who shall lay the same before the said court at their next session; and the person so neglecting shall be cited to appear before the said court, to answer for such neglect; and if no sufficient reason shall be assigned therefor, he shall be considered and adjudged disqualified for joining persons in marriage for a term of time, not exceeding ten years, at the discretion of the justices of the said court. And every town and district clerk shall duly and seasonably record all marriages, so certified to him, as aforesaid:

[And shall also return a list or copy thereof to the clerk of the Court of General Sessions of the Peace of the same county, some time in the month of May, yearly and every year, to be there recorded, upon penalty of forfeiting twenty shillings for each neglect: And it shall be the duty of each clerk of the sessions to prosecute for every such neglect, in the county to which he belongs. And every clerk of the sessions shall record all such returns of marriages at large in a book to be kept for that purpose, and no other, under the same penalty for each neglect.] *Repealed 1795, ch. 41, § 1.*

SECT. 7. *And be it further enacted*, That no person by this Act authorized to marry, shall join in marriage any white person with any negro, indian or mulatto, on penalty of the sum of fifty pounds, two third parts thereof to the use of the county wherein such offence shall be committed, and the residue to the prosecutor, to be recovered by the treasurer of the same county, in manner as aforesaid; and all such marriages shall be absolutely null and void.

SECT. 8. *And be it further enacted by the authority aforesaid*, That any marriages which have been or hereafter may be had and solemnized, among the people called Quakers, or Friends, in the manner and form used and practised in their societies, shall be good and valid in law, anything in this Act to the contrary notwithstanding: And the clerk, or keeper of the records of the meeting wherein such marriage shall be had and solemnized, shall once a year make a certificate, under his hand, of all marriages had and solemnized in the society, or meeting, to which he belongs, and shall deliver the same to the clerk of the Court of General Sessions of the Peace of the county wherein the marriages have been had and solemnized, under the penalty of twenty shillings for each neglect. All fines, not particularly appropriated, shall be to the use of the prosecutor. And all former laws relating to the solemnization of marriages, are hereby repealed.

This Act to be in force from and after the last day of December, one thousand seven hundred and eighty-six, and not sooner. [June 22, 1786.]

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## CHAPTER 7 OF ACTS OF 1795.

AN ACT REPEALING A CERTAIN CLAUSE OF AN ACT, ENTITLED, "AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES."

WHEREAS in and by the Act, entitled, as aforesaid, among other things, the following clause is enacted, viz. "And if it shall so happen, that any one or more of the said justices or ministers shall not have joined together in marriage any person during the course of the year then last past, it shall be the duty of such justice or minister also to certify to the said town-clerk, in writing, under his hand, that he has not joined any persons in marriage within the course of the said year;" and a compliance with the said clause is found inconvenient:

*Be it therefore enacted by the Senate and House of Representatives in General Court Assembled, and by the authority of the same*, That the before recited clause be and it is hereby repealed. [June 15, 1795.]

CHAPTER 41 OF ACTS OF 1795.

FEES FOR MARRIAGES.

To the town-clerk for publishing the banns of matrimony, recording the same, giving a certificate of the publishment, and recording the marriage upon receiving the justice's or minister's certificate thereof, fifty cents, to be paid by the man published, on receiving a certificate of the publishment. And the town-clerk shall not in future be holden to return certificates of marriages to the clerks of the Courts of General Sessions of the Peace, nor clerks last mentioned to record the same. To every minister or Justice of the Peace, who shall lawfully solemnize a marriage, and certify the same, one dollar and twenty-five cents. To the town-clerk for recording births and deaths, eight cents each. For a certificate of a birth or death, ten cents. For a subpœna for one or more witnesses, ten cents.

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CHAPTER 69 OF ACTS OF 1795.

AN ACT FOR RECORDING BIRTHS AND DEATHS BY THE CLERKS OF TOWNS AND DISTRICTS.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That it shall be the duty of every town-clerk and every district-clerk, within this Commonwealth, to record all births and deaths which shall happen within his town or district and come to his knowledge, together with the time of such birth or death, and the names of his or her parents, if known, for the fees allowed, by law, to be paid by his town or district.

SECT. 2. *And be it further enacted,* That it shall be the duty of parents to give notice to the clerk of the town or district in which they dwell, of all the births and deaths of their children; and it shall be the duty of every householder to give notice of every birth and death which may happen in his house; and of the eldest person next of kin to give such notice of the death of his kindred; and it shall be the duty of the master or keeper of any alms-house, work-house or prison, and of the master or commander of any ship or vessel, to give notice of every birth and death which may happen in the house or vessel under his care or charge, to the clerk of the town or district in which such event shall happen: And in case any person, whose duty it shall be, by virtue of this Act, to give notice as aforesaid, shall neglect to perform the same for the space of six months after the birth or death shall happen, the person so neglecting shall pay a fine of one dollar, to be recovered, with costs of suit, on complaint before any Justice of the Peace for the same county, to the use of any inhabitant of the same town who shall prosecute for the same; from which judgment there shall be no appeal.

SECT. 3. *And be it further enacted,* That this Act shall be in force on and after the first day of September next; and that an Act passed *Anno Domini* one thousand six hundred and ninety-two, for registering births and deaths, shall be and hereby is repealed, on and after that day. [Feb. 26, 1796.]



## CHAPTER 61 OF ACTS OF 1817.

AN ACT EXPLANATORY OF AN ACT, ENTITLED, "AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES."

*BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That any marriage which has been, or which shall hereafter be solemnized by any minister or Justice of the Peace, agreeably to the provisions of the Act, entitled, "An Act for the orderly solemnization of Marriages," in any plantation, which at the time of passing said Act was included within the counties of Cumberland or Lincoln, shall be deemed and taken to be legal, to all intents and purposes, as if the said counties, or either of them, had not been divided. And every Justice of the Peace, or minister, who shall hereafter solemnize any such marriage, shall transmit a certificate thereof to the clerk of the Circuit Court of Common Pleas for the county in which said plantation is situated, to be recorded by said clerk, in a book to be by him kept for that purpose. [Jan. 27, 1818.]

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## CHAPTER 141 OF ACTS OF 1817.

AN ACT IN EXPLANATION OF AN ACT, ENTITLED, "AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES."

*BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That all marriages (between persons who may or might lawfully enter into that relation) which have been or may hereafter be solemnized by any stated ordained minister of the gospel, in the town, parish, district, or plantation, within or over which such minister, at the time, was, or may be settled, and where one of the parties resided, or shall reside, shall be, and be considered valid in law, notwithstanding such minister, at the time, shall reside, or may have resided without the limits of the town, district, parish or plantation, within or over which he is, or was so settled. And it shall be sufficient that the certificate of any marriage, so solemnized, shall be lodged with the clerk of the town, district or plantation, within or over which such minister is so settled. [Feb. 20, 1818.]

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## CHAPTER 55 OF ACTS OF 1820.

AN ACT IN FURTHER ADDITION TO THE ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That every stated ordained minister of the gospel shall be, and hereby is authorized and empowered to solemnize marriages between persons that may lawfully enter into that relation, when one or both of the persons to be married belong to the parish or congregation of such minister, although such person or persons shall reside without the limits of the town, parish, or district in which such minister may be settled; and such marriages may be solemnized either within the town, parish, or district wherein such minister resides, or wherein such person or persons may reside.

SECT. 2. *Be it further enacted,* That whenever any persons, who may lawfully enter into the marriage relation, shall belong to, or be resident in a town or district, in which there shall be no stated ordained minister of the gospel, of the sect or denomination to which such persons, or

either of them belong, it shall be lawful for any settled, ordained minister, of the sect or denomination to which such persons, or either of them belong, residing in any other town or district within this Commonwealth, to solemnize marriage between such persons, within the town or district where they, or either of them reside; the certificate of which marriage shall be filed with the clerk of the town or district where such marriage shall be solemnized; and the duties of ministers and town clerks, in relation to certificates of marriage, solemnized under the provisions of this Act, and the penalties for the neglect thereof, shall be the same as are provided in the Act, entitled "An Act for the orderly solemnization of marriages." [Feb. 12, 1821.]

## CHAPTER 177 OF ACTS OF 1834.

### AN ACT FOR THE ORDERLY SOLEMNIZATION OF MARRIAGES.

SECTION 1. *BE it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That every justice of the peace within his jurisdiction, and every minister of the Gospel within the Commonwealth, who has been ordained according to the usage of his denomination, and who is resident therein, be, and they hereby are authorized and empowered to solemnize marriages between persons who may lawfully enter into that relation, when either of the persons to be married belongs to, or is resident within the jurisdiction of said justice or minister; but all such marriages shall be solemnized in the city, town, or district in which the person solemnizing the same may reside, or within the city, town, or district in which one or both of the persons to be married may reside.

SECT. 2. *BE it further enacted,* That all persons desiring to be joined in marriage, shall have their intentions of marriage published at three public religious meetings, on different days, at three days' distance at least from each other exclusively, in the city, town, or district wherein they respectively dwell, or shall have such their intentions of marriage posted up, by the clerk of such city, town or district wherein they respectively dwell, for the space of fourteen days in some public place, within the same city, town, or district, fairly written, and shall also produce to the justice or minister, who may be desired to marry them, a certificate of such publishment under the hand of the clerk of such city, town, or district respectively, and also that the intentions of marriage have been entered with him fourteen days prior to the date of such certificate; and when a male under twenty-one years, or a female under eighteen years of age, is to be married, the consent of the parent, guardian or other person under whose immediate care or government such party is, if within the Commonwealth, shall be first had to such marriage. And in case the parties or either of them, live in a town, district, or other place where there shall be no clerk, then publishment shall be made in manner aforesaid, in a city, town, or district next adjoining, and the certificate from the clerk of such adjoining city, town, or district, of such publishment, and of the entry of their intentions of marriage as aforesaid, previous to their marriage.

SECT. 3. *BE it further enacted,* That if, at any times, the banns of matrimony between any persons shall be forbidden, and the reasons thereof, assigned in writing by the person forbidding the same, be left with the city, town, or district clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall have been duly inquired into and determined before two justices of the same county, quorum unus: *provided,* the person forbidding the banns, shall, within seven days after filing the reasons as aforesaid, apply unto two justices as aforesaid, and procure their determination thereon, unless the said justices shall certify unto the said clerk, that a further time is necessary for their determi-



nation on the reasons filed ; in which case the clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the justices shall sooner determine, according to whose determination the clerk shall govern himself herein ; and if the said justices shall determine that the reasons assigned by the person forbidding the said banns were not supported by the laws of the Commonwealth, then the person so forbidding shall pay all the cost that may have arisen in consequence of such objection, and the said justices shall make up judgment, and issue execution accordingly.

SECT. 4. *BE it further enacted*, That if any person shall deface or take down any publishment in writing, posted up as aforesaid, before the expiration of the fourteen days, he shall, upon conviction thereof, forfeit and pay a sum not less than two, or more than twenty dollars, to the use of the person who shall prosecute therefor. And if any justice of the peace, or minister, shall, otherwise than is expressly allowed and authorized by this act, join any persons in marriage, they shall, upon conviction thereof, severally forfeit and pay a sum not less than fifty, nor more than one hundred dollars, one moiety thereof to the use of the county wherein the offence may be committed, and the other moiety to the use of the person who shall prosecute therefor ; and in case any person whatever, not authorized and empowered to solemnize marriages by this act, shall join any persons in marriage, and be convicted thereof in any court of competent jurisdiction, upon presentment or indictment, he shall be imprisoned in the common jail, or confined to hard labor, for a term not exceeding six months, or pay a fine of not less than fifty, nor more than two hundred dollars, to the use of the Commonwealth, at the discretion of said court.

SECT. 5. *BE it further enacted*, That every justice and minister shall make and keep a particular record of all the marriages solemnized before them respectively ; and, in the month of April annually, shall make a return to the clerk of the city, town, or district in which he resides, of a certificate containing the Christian and surnames, and places of residence, of all the persons joined in marriage, by them respectively, within the year then last past, and also the time when, and the name of the city, town, or district, in which such marriages were respectively solemnized ; and when neither of the persons married belongs to, or is resident in the city, town, or district, in which such justice or minister resides, then such justice or minister shall also make a like return of a certificate to the clerk of the city, town, or district in which one or both of the persons married may reside, within thirty days from the solemnization of the same. And any justice or minister who shall neglect to make such returns, shall, upon conviction thereof, before any court of competent jurisdiction, in the county in which he resides, forfeit and pay for each neglect a sum of not less than twenty nor more than one hundred dollars, at the discretion of said court, one moiety thereof to the use of said county, and the other moiety to the use of the person who shall prosecute for the same ; and every city, town, or district clerk shall duly and reasonably record all marriages so certified to him as aforesaid.

SECT. 6. *BE it further enacted*, That all marriages which have been or may be solemnized among the people called quakers or friends, in the manner and form used and practised in their societies, shall be good and valid in law, anything in this act to the contrary notwithstanding. And the clerk or keeper of the records of the meeting wherein such marriages shall be solemnized, shall, in the month of April, annually, make and deliver to the clerk of the city, town, or district in which such society usually meet and worship, a certificate of all marriages solemnized therein, during the year then last past, as in the fifth section of this act is provided, under the penalty of not less than twenty nor more than one hundred dollars for each neglect, to be recovered in the manner and to the uses as in said fifth section is provided.

SECT. 7. *BE it further enacted*, That all marriages between persons who might lawfully enter into that relation, heretofore solemnized by any justice or minister, be and they hereby are confirmed and made valid in law, although such justice or minister may have exceeded his authority or jurisdiction.

SECT. 8. *BE it further enacted*, That “an act for the orderly solemnization of marriages” (except the seventh section thereof,) passed June twenty-second, in the year of our Lord one thousand seven hundred and eighty-six; also “an act repealing a certain clause of an act for the orderly solemnization of marriages,” passed June fifteenth, in the year of our Lord one thousand seven hundred and ninety-five; also, “an act explanatory of an act for the orderly solemnization of marriages,” passed January twenty-seventh, in the year of our Lord one thousand eight hundred and eighteen; also an act in explanation of an act for the orderly solemnization of marriages, passed February twentieth, in the year of our Lord one thousand eight hundred and eighteen, and also “an act in further addition to the act for the orderly solemnization of marriages,” passed February twelfth, in the year of our Lord one thousand eight hundred and twenty-one, be, and they are hereby repealed: *provided, however*, that all marriages confirmed by, or solemnized in pursuance of the provisions of these acts, be ratified and confirmed.

SECT. 9. *BE it further enacted*, That no minister who has unintentionally violated the laws now in force, for the solemnization of marriages, shall be subjected to any penalty or punished for that cause.

SECT. 10. *BE it further enacted*, That the provisions of this act shall go into operation on the first day of May next. [Approved by the Governor, April 1, 1834.]

## CHAPTER 15 OF THE REVISED STATUTES OF 1836.

### RECORD OF BIRTHS AND DEATHS. — NOTICE OF BIRTHS AND DEATHS.

SECT. 46. The town clerk shall keep a record of the births and deaths of all persons within his town, and coming to his knowledge; and he shall specify in such record the day of each birth and death, and the names of the parents of such persons, if known.

SECT. 47. Parents shall give notice to the clerk of their town of all the births and deaths of their children; and every householder shall give the like notice of every birth and death happening in his house; and the eldest person next of kin shall give such notice of the death of his kindred; and the keeper of any almshouse, workhouse, house of correction, prison or hospital, and the master or other commanding officer of any ship, shall give the like notice of every birth and death happening among the persons under his charge; and every person neglecting to give such notice, for the space of six months, after the birth or death shall have happened, shall forfeit to the use of the town a sum not exceeding five dollars.

## CHAPTER 75 OF THE REVISED STATUTES OF 1836.

### FOR REGULATING MARRIAGES.

SECTION 1. No man shall marry his mother, grandmother, daughter, granddaughter, step-mother, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, sister, brother's daughter, sister's daughter, father's sister, or mother's sister.



SECT. 2. No woman shall marry her father, grandfather, son, grandson, step-father, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother, brother's son, sister's son, father's brother, or mother's brother.

SECT. 3. In all the cases, mentioned in the two preceding sections, in which the relationship is founded on a marriage, the prohibition shall continue in full force, notwithstanding the dissolution of such marriage by death, or by a divorce, unless the divorce be for a cause, which shows the marriage to have been originally unlawful or void.

SECT. 4. All marriages, contracted whilst either of the parties has a former wife or husband living, shall be void, unless the former marriage shall have been dissolved for some cause other than the adultery of the person contracting such second marriage.

SECT. 5. No white person shall intermarry with a negro, indian or mulatto; and no insane person or idiot shall be capable of contracting marriage.

SECT. 6. When any persons, resident in this state, shall undertake to contract a marriage, contrary to the preceding provisions of this chapter, and shall, in order to evade those provisions, and with an intention of returning to reside in this state, go into another state or country, and there have their marriage solemnized, and shall afterwards return and reside here, such marriage shall be deemed void in this state.

SECT. 7. All persons, intending to be joined in marriage, shall cause notice of their intention to be entered, fourteen days at least before their marriage, in the office of the clerk of the town in which they may respectively dwell (if within this state); and if there be no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town.

SECT. 8. The intention shall be published by the clerk, with whom the entry is made, either by posting up a written notice thereof, in some public place in the town of which he is the clerk, fourteen days at least before the marriage, or by making a public proclamation thereof, at three public religious meetings in the town, on different days; the said meetings to be not less than three days distant from each other, exclusive of the days of the publication.

SECT. 9. The clerk shall deliver to the parties a certificate, under his hand, specifying the time when notice of the intention of marriage was entered with him, and the time of the publication thereof; which certificate shall be delivered to the magistrate or minister, in whose presence the marriage is to be contracted, before he shall proceed to solemnize the same.

SECT. 10. After the intention of marriage is entered with the clerk, if any person shall forbid the banns, and shall assign his reasons therefor in writing, and leave the same with the clerk, the certificate shall not be issued, until the matter shall have been duly inquired into and determined, in the manner hereinafter mentioned; provided the person forbidding the banns shall apply to two justices of the peace and of the quorum, of the same county, and shall, within seven days after the filing of his reasons, procure their decision thereon, or produce to the clerk their certificate that a further time is necessary for the consideration thereof; in which case, the clerk shall withhold his certificate, until the expiration of such further time, unless the justices shall sooner make known their decision.

SECT. 11. The two justices, so applied to, shall proceed forthwith to give notice thereof to the persons who propose to be married, and after a full hearing of the parties, or of the person objecting to the marriage, if the others do not appear, the justices shall decide on the truth and sufficiency of the reasons assigned for forbidding the banns,

and shall certify their decision thereon to the clerk, with whom the intention of marriage was entered.

SECT. 12. If the said two justices shall certify that the objections to the marriage are true and sufficient, the clerk shall not issue any certificate of the publication of the banns; but if they shall certify that the objections are not proved, or are not sufficient, or if they shall not agree in a determination thereupon, the clerk shall forthwith issue his certificate, in the same manner as if no objection had been made thereto.

SECT. 13. If the said justices shall certify that the objections to the marriage are true and sufficient, the persons, who propose to be married, or either of them, may appeal from such decision to the court of common pleas, or the supreme judicial court, next to be held for the same county, and the determination of the court thereon shall be final in the case; and the clerk of the town shall issue, or withhold, his certificate of the publication of the banns, according to such final determination.

SECT. 14. If the objections, so made to any marriage, shall not be proved, and adjudged to be sufficient, the person making the same shall pay all the costs, that shall have been incurred on account thereof, to be taxed by the justices or the court, as the case may be, and execution therefor shall be issued accordingly.

SECT. 15. When a male, under the age of twenty-one years, or a female, under the age of eighteen years, is to be married, the magistrate or minister shall not proceed to solemnize the marriage, without the consent of the parent or guardian, having the custody of such minor, if there be any in the state competent to act.

SECT. 16. Marriages may be solemnized by any justice of the peace, in the county for which he is appointed, when either of the parties resides in the same county; and they may be solemnized throughout the state by any minister of the gospel, who has been ordained according to the usage of his denomination, and who resides within the state, and continues to preach the gospel and to perform the other functions of his office; but all such marriages shall be solemnized in the town, in which the person solemnizing them may reside, or in which one or both of the persons to be married may reside.

SECT. 17. Every justice and minister shall keep a record of all marriages solemnized before him, and in the month of April, annually, shall make a return, to the clerk of the town in which he resides, of a certificate, containing the christian and surnames, and places of residence, of all the persons who have been by him joined in marriage, within the year then last past, and also the time when, and the name of the town in which, such marriages were respectively solemnized; and when neither of the married persons belongs to or is resident in the town in which the justice or minister resides, then such justice or minister shall, within thirty days after such marriage, also return a like certificate to the clerk of the town in which one or both of the married persons may reside; and all marriages, so certified to the clerk, shall be forthwith recorded by him in a book to be kept for that purpose.

SECT. 18. Every justice of the peace and minister, who shall neglect to make such returns, shall, upon conviction thereof, forfeit for each neglect a sum, not less than twenty, nor more than one hundred dollars; one moiety thereof to the use of the county in which he resides, and the other moiety to the use of the person who shall prosecute therefor.

SECT. 19. If any justice of the peace or minister shall join any persons in marriage, contrary to the provisions of this chapter, he knowing that the marriage is not duly authorized, he shall, upon conviction thereof, forfeit a sum not less than fifty, nor more than one



hundred dollars, one moiety thereof to the use of the county where the offence is committed, and the other moiety to the use of the person who shall prosecute therefor.

SECT. 20. If any person shall undertake to join others in marriage, knowing that he is not lawfully authorized so to do, and shall be thereof convicted, upon indictment in any court of competent jurisdiction, he shall be imprisoned in the common jail, or confined to hard labor, for a term not exceeding six months, or shall pay a fine, not less than fifty, and not more than two hundred dollars.

SECT. 21. If any person shall wilfully deface or take down any written notice of the intention of marriage, posted up as before prescribed, within fourteen days after it is so posted up, he shall, upon conviction thereof, forfeit a sum not less than two, or more than twenty dollars, to the use of the person who shall prosecute therefor.

SECT. 22. The preceding regulations, so far as they relate to the manner of solemnizing marriages, shall not effect [*affect*] marriages among the people called friends or quakers, but such marriages may be solemnized, in the manner heretofore used and practised in their societies.

SECT. 23. The clerk or keeper of the records of the meeting, wherein any marriages among the said friends or quakers shall be solemnized, shall, in the month of April, annually, make and deliver to the clerk of the town in which such society usually meet and worship, a certificate, like that before prescribed to be returned by justices and ministers, of all marriages solemnized in the said meeting, within the year then last past, under the penalty of not less than twenty, nor more than one hundred dollars, for each neglect; which penalty shall be recovered in the manner, and to the uses, provided in the case of a like neglect by a justice or minister.

SECT. 24. No marriage, solemnized before any person professing to be a justice of the peace, or a minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, on account of any want of jurisdiction or authority in such supposed justice or minister, or on account of any omission or informality in the manner of entering the intention of marriage or in the publication of the banns; provided, that the marriage be in other respects lawful, and be consummated with a full belief, on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.

SECT. 25. The record of a marriage, made and kept as before prescribed, by a justice of the peace or minister, or by the clerk of any town, or a copy of any such record duly certified, shall be received, in all courts and places, as presumptive evidence of the fact of such marriage.

[NOTE.—By Chapter 146 it was provided that this revision was to take effect on and after the last day of April, 1836.]

CHAPTER 122 OF THE REVISED STATUTES OF 1836.

FEES FOR MARRIAGES.

SECT. 11. To the town clerk, for publishing the banns of matrimony, recording the same, giving a certificate thereof, and recording the marriage upon receiving the minister's or justice's certificate thereof, fifty cents, to be paid on delivering the certificate of publishing the banns:

To every minister or justice of the peace, who shall lawfully solemnize a marriage, and certify the same, one dollar and twenty-five cents.

TOWN CLERK'S FEES.

SECT. 12. For recording births and deaths, eight cents each:

For a certificate of a birth or death, ten cents:

For copies of town records, and other documents, furnished to any person at his request, if containing less than one page, ten cents, and if containing more, at the rate of twelve cents a page.

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CHAPTER 84 OF ACTS OF 1840.

AN ACT RELATING TO THE EVIDENCE OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

Whenever, on hearing of any application for divorce, the fact of marriage is required or offered to be proved, evidence of admission of said fact by the party against whom the process is instituted, or of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence, from which said fact may be inferred, shall be received as competent evidence for consideration, whether the marriage to be proved was contracted in this Commonwealth or elsewhere.

[Approved by the Governor, March 23, 1840.]

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CHAPTER 20 OF ACTS OF 1841.

AN ACT IN ADDITION TO AN ACT RELATING TO THE EVIDENCE OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

The provisions of an act relating to the evidence of marriage, passed on the twenty-third day of March, in the year one thousand eight hundred and forty, are hereby extended to all cases where it shall become necessary to prove the fact of marriage, in any hearing before any court in this Commonwealth.

[Approved by the Governor, Feb. 16, 1841.]



## CHAPTER 95 OF ACTS OF 1842.

AN ACT RELATING TO THE REGISTRY AND RETURNS OF BIRTHS,  
MARRIAGES, AND DEATHS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. The clerks of the several towns and cities in the Commonwealth shall, annually, in the month of May, transmit to the Secretary of the Commonwealth a certified copy of their record of the births, marriages, and deaths of all persons within their respective towns and cities, which may come to their knowledge; shall state the number of births and marriages, and the number of deaths, with the name, sex, age, (and if an adult male, the occupation,) and the names of the diseases of which all persons have died, or are supposed to have died, together with the cause or causes of the death of all such deceased persons, so far as they may be able to obtain a knowledge of the same from physicans or others; and any clerk who shall neglect to make such return, shall be liable to a penalty of ten dollars, to be recovered for the use of any town or city where such neglect shall be proved to have existed.

SECT. 2. The Secretary of the Commonwealth shall prepare and furnish to the clerks of the several towns and cities in this Commonwealth, blank forms of returns, as hereinbefore specified, and shall accompany the same with such instructions and explanations as may be necessary and useful; and he shall receive said returns, and prepare therefrom such tabular results as will render them of practical utility, and shall make report thereof annually to the legislature, and generally shall do whatever may be required to carry into effect the objects of this act, and of the several provisions of the Revised Statutes not inconsistent with this act.

[Approved by the Governor, March 3, 1842.]

## CHAPTER 5 OF ACTS OF 1843.

AN ACT RELATING TO MARRIAGES BETWEEN INDIVIDUALS OF CERTAIN  
RACES.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

So much of the fifth section of the seventy-fifth chapter and of the first section of the seventy-sixth chapter of the Revised Statutes, as relates to marriages between white persons and negroes, indians and mulattoes, is hereby repealed.

[Approved by the Governor, Feb. 25, 1843.]

CHAPTER 159 OF ACTS OF 1844.

AN ACT RELATING TO THE REGISTRY AND RETURNS OF BIRTHS,  
MARRIAGES, AND DEATHS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. The clerks of the several cities and towns in this Commonwealth shall, annually, in the month of June, transmit to the secretary of the Commonwealth a certified copy of their record of births, marriages, and deaths, which have occurred within their respective cities and towns during the year next preceding the first day of said month.

The births shall be numbered and recorded in the order in which they are received by the clerk. The record of births shall state in separate columns the date of the birth, the place of birth, the name of the child, (if it have any,) the sex of the child, name and surname of one or both of the parents, occupation of the father, residence of the parents, and the time when the record was made.

The marriages shall be numbered and recorded in the order in which they are received by the clerk. The record of marriages shall state in separate columns, the date of the marriage, the place of the marriage, the name, residence, and official station of the person by whom married, the names and surnames of the parties, the residence of each, the age of each, the condition of each, (whether single or widowed,) the occupation, names of the parents, and the time when the record was made.

The deaths shall be numbered and recorded in the order in which they are received by the clerk. The record of deaths shall state in separate columns the date of the death, the name and surname of the deceased, the sex, condition, (whether single or married,) age, occupation, place of death, place of birth, names of the parents, disease or causes of death, and the time when the record was made.

SECT. 2. The school committee of each city or town shall, annually, in the month of May, ascertain from actual inquiry or otherwise, all the births which have happened within such city or town, during the year next preceding the first day of said May, together with the facts concerning births required by the first section of this act, and shall make an accurate return thereof to the clerk of such city or town, on or before the last day of said May; and the said school committee, or other person authorized by them to make such returns, shall be entitled to receive from the treasury of such city or town, five cents for each and every birth so returned.

SECT. 3. Every justice, minister, and clerk, or keeper of the records of the meeting wherein any marriages among the Friends or Quakers shall be solemnized, shall make a record of each marriage solemnized before him, together with all the facts relating to marriages required by the first section of this act; and each such justice, minister, clerk, or keeper shall, between the first and tenth days of each month, return a copy of the record for the month next preceding, to the clerk of the city or town in which the marriage was solemnized; and every person as aforesaid, who shall neglect to make the returns required by this section, shall be liable to the penalty provided in the eighteenth section of the seventy-fifth chapter of the Revised Statutes.

SECT. 4. Each sexton or other person, having the charge of any burial ground in this Commonwealth, shall, on or before the tenth day of each month, make returns of all the facts required by the first section of this act, connected with the death of any person whose burial he may have superintended during the month next preceding, to the clerk of



the city or town in which such deceased person resided at the time of his death. And such sexton, or other person, shall be entitled to receive from the treasury of the city or town to which the return is made, five cents for the return of each death made agreeably to the provisions of this act.

SECT. 5. The clerk of each city or town shall be entitled to receive from the treasury of such city or town, eight cents for the record of each birth and death: *provided* such clerk shall comply with this act in all respects.

SECT. 6. It shall be the duty of the clerks of the several cities and towns, to make such distribution of blank forms of returns as shall be designated by the secretary of the Commonwealth.

SECT. 7. The secretary of the Commonwealth shall prepare and furnish to the clerks of the several cities and towns in this Commonwealth, blank books of suitable quality and size, to be used as books of record, according to the provisions of this act, and also blank forms of returns, as herein before specified, and shall accompany the same with such instructions and explanations as may be necessary and useful; and he shall receive said returns, and prepare therefrom such tabular results, as will render them of practical utility, and shall make report thereof annually to the legislature, and generally shall do whatever may be required to carry into effect the provisions of this act.

SECT. 8. Any clerk who shall neglect to comply with the requirements of this act, shall be liable to a penalty of ten dollars, to be recovered for the use of any city or town where such neglect shall be proved to have existed.

SECT. 9. An act entitled "an act relating to the registry of births, marriages, and deaths," passed on the third day of March, in the year one thousand eight hundred and forty-two, is hereby repealed.

SECT. 10. This act shall take effect from and after its passage.

[Approved by the Governor, March 16, 1844.]

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## CHAPTER 222 OF ACTS OF 1845.

### AN ACT CONCERNING MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

The validity of any marriage in consequence of the incapacity of either of the parties thereto, to contract the same by reason of insanity or idiocy, shall not be called in question upon the trial of any collateral issue, before any of the courts of this Commonwealth, — but only in a process duly instituted, for the purpose of determining the validity thereof, during the life-time of both the parties thereto.

[Approved by the Governor, March 25, 1845.]

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## CHAPTER 202 OF ACTS OF 1849.<sup>1</sup>

### AN ACT RELATING TO THE REGISTRATION OF BIRTHS, MARRIAGES, AND DEATHS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. Town and city clerks are hereby authorized and required to obtain, record, and index the information concerning births, mar-

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<sup>1</sup> Chapter 197 of Acts of 1846 relates to "Marriage and Divorce" but does not refer to the recording of marriages, nor the issuing of marriage licenses. — W. H. W.

riages, and deaths, now required by law. Towns and cities, containing more than ten thousand inhabitants, may choose a person, other than the town or city clerk, to be town or city registrar, to perform this duty instead of the town or city clerk; and said registrar shall take an oath faithfully to perform the duties of the office.

SECT. 2. The fees of the clerk and registrar, for obtaining, recording, and indexing the information required by this act, shall be as follows: For each birth, twenty cents; for each intention of marriage, including the certificate to the parties, fifty cents; for each marriage solemnized, ten cents; for each death, five cents; and the undertaker shall be allowed ten cents for information concerning each death which he returns to the clerk or registrar; said fees for births, deaths, and marriages solemnized, shall be paid by the town; and for intentions of marriage, by the parties having such intentions; *provided, however*, that the aggregate compensation, allowed to any clerk or registrar, may be limited by any town or city containing over ten thousand inhabitants, but, in no case, so as to prevent the full execution of this act.

SECT. 3. Any undertaker, or other person, having the superintendence of the burial of any deceased person, who shall neglect or refuse to obtain and return the information required by this act, concerning each person deceased, whose burial shall come under his superintendence, shall be liable to a penalty not exceeding twenty dollars for each neglect, and, if an undertaker, to be deprived of his office. And every clerk or registrar, who wilfully neglects or refuses to perform the duties herein prescribed, shall be liable to a penalty of not less than twenty, nor more than one hundred dollars, for each neglect or refusal. All penalties and forfeitures, under this act, may be recovered by any person who shall sue for the same, one-half thereof to the use of said complainant, and the other half to the use of the town or city in which the forfeiture shall have been incurred.

SECT. 4. The returns required to be made on the first day of February, in the year one thousand eight hundred and fifty, shall include the births, deaths, and marriages, from the first day of May, in the year one thousand eight hundred and forty-eight, to said day of return.

SECT. 5. Copies of records, in the several towns and cities, of the births, marriages, and deaths, which occurred during the next preceding year, ending December thirty-first, shall be returned to the Secretary of State, annually, on or before the first day of February. The blank forms of said returns shall be printed on paper of uniform size; and those for each year, when filled out and returned to the office of the Secretary of State, shall be bound together, in one or more volumes, and shall be furnished with an index. Blank books for indexes to the town registrars, [*sic*] shall be prepared by the Secretary of State, and furnished to the several towns and cities at the expense of the Commonwealth.

SECT. 6. All parts of acts inconsistent with the provisions of this act are hereby repealed.

[Approved by the Governor, May 2, 1849.]

## CHAPTER 121 OF ACTS OF 1850.

### AN ACT RELATING TO BANNS OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. All persons intending to be joined in marriage shall cause notice of their intention to be entered before their marriage, in the office of the clerk, registrar, or other officer appointed for such pur-



pose, of the city or town in which they may respectively dwell, (if within the State;) and if there be no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town.

SECT. 2. The clerk shall deliver to the parties a certificate under his hand, specifying the time when notice of the intention of marriage was entered with him, which certificate shall be delivered to the minister or magistrate, in whose presence the marriage is to be contracted, before he shall proceed to solemnize the same.

SECT. 3. Whenever parties living in this Commonwealth shall go out of it for the purpose of having a marriage solemnized between them in another state, and a marriage shall be so solemnized, and they shall return to dwell here, they are hereby required to file a certificate or declaration of their marriage, including the facts concerning marriages now required by law, with the clerk or registrar of the town or city where either of them lived at the time, within seven days after their return, under a penalty of ten dollars, to be recovered in the manner and to the uses specified in the third section of the "act relating to the registration of births, marriages, and deaths," passed on the second day of May, in the year eighteen hundred and forty-nine.

SECT. 4. The fee of the clerk or registrar, for making the record of such marriage, shall be fifty cents, to be paid by the said parties.

SECT. 5. So much of the seventy-fifth chapter of the Revised Statutes as is inconsistent with this act, is hereby repealed; *provided, nevertheless*, that nothing herein contained shall be so construed as to modify or alter the provisions of the twenty-second section of the said seventy-fifth chapter, which relates to marriages among the people called Friends or Quakers, but the same shall remain in full force.

[Approved by the Governor, March 28, 1850.]

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## CHAPTER 335 OF ACTS OF 1853.

### AN ACT IN ADDITION TO AN ACT RELATING TO BANNS OF MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. No clerk or registrar of any city or town shall issue any certificate of intention of marriage to any male person under the age of twenty-one years, or to any female person under the age of eighteen years, except it be upon the application of the parent, master, or guardian of such person, or with their consent in writing expressed, under a penalty not exceeding one hundred dollars, to be recovered by indictment, to the use of the commonwealth, in any court proper to try the same: *provided*, that if there be no parent, master, or guardian, in the state, competent to act, a certificate may be issued without the application or written consent aforesaid.

SECT. 2. The clerk or registrar of every city or town may require of any person who shall apply for a certificate of intention of marriage, an affidavit, sworn to before some justice of the peace for the county where such application is made, setting forth his or her age, and for the purposes of this act, such affidavit shall be proof of the age of the person to whom such a certificate shall be given.

[Approved by the Governor, May 12, 1853.]

CHAPTER 366 OF ACTS OF 1855.

AN ACT RELATING TO THE REGISTRATION OF BIRTHS, MARRIAGES,  
AND DEATHS, IN THE STATE ALMSHOUSES.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

The superintendents of the State almshouses located at Monson, Tewksbury, and Bridgewater, are hereby authorized and required to make record of all the births and deaths which occur in the institutions under their care, and make returns of the same to the secretary of State, annually, as all town and city clerks are required to do by the act to which this is an act in addition ; and the town clerks of Monson, Tewksbury, and Bridgewater are hereby exempted from all duties herein required of the superintendents of the above named institutions.

[Approved by the Governor, May 17, 1855.]

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CHAPTER 34 OF ACTS OF 1857.

AN ACT IN ADDITION TO AN ACT RELATING TO BANNS OF MARRIAGE.

*Be it enacted, etc., as follows :*

If any person, applying to any clerk or registrar of any city or town for a certificate of intention of marriage, shall wilfully practise any deception, by making any false statement in relation to the age or residence of either of the parties intending marriage, or in relation to the parent, master, or guardian of either of the said parties, such person shall be subject to a penalty of not more than two hundred dollars, to be recovered by indictment, to the use of the Commonwealth, in any court competent to try the same.

[Approved March 28, 1857.]

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CHAPTER 195 OF ACTS OF 1860.

AN ACT CONCERNING FRAUDULENT NOTICES OF BIRTHS, MARRIAGES,  
AND DEATHS.

*Be it enacted, etc., as follows :*

Any person who shall wilfully send to the publishers of any newspaper, for the purpose of publication, a fraudulent notice of the birth of a child, or of the marriage of any parties, or of the death of any person, shall, upon conviction thereof, be punished by a fine not exceeding one hundred dollars.

[Approved April 4, 1860.]



## GENERAL STATUTES,

*To take effect June 1, 1860.*

## CHAPTER 21.

## OF THE REGISTRY AND RETURNS OF BIRTHS, MARRIAGES, AND DEATHS.

SECTION 1. The clerk of each city and town shall receive or obtain, and record and index, the following facts concerning the births, marriages, and deaths, therein, separately numbering and recording the same in the order in which he receives them, designating in separate columns:

In the record of births, the date of the birth, the place of birth, the name of the child, (if it have any,) the sex and color of the child, the names and the places of birth of the parents, the occupation of the father, the residence of the parents, and the date of the record;

In the record of marriages, the date of the marriage, the place of marriage, the name, residence, and official station of the person by whom married, the names and the places of birth of the parties, the residence of each, the age and color of each, the condition of each, (whether single or widowed,) the occupation, the names of the parents, and the date of the record;

In the record of deaths, the date of the death, the name of the deceased, the sex, the color, the condition, (whether single, widowed, or married,) the age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of the parents, the disease or cause of death, the place of burial, and the date of the record.

SECT. 2. Parents shall give notice to the clerk of their city or town of the births and deaths of their children; every householder shall give like notice of every birth and death happening in his house; the eldest person next of kin shall give such notice of the death of his kindred; the keeper of a workhouse, house of correction, prison, hospital, or almshouse, except the state almshouses at Tewksbury, Bridgewater, and Monson, and the master or other commanding officer of any ship shall give like notice of every birth and death happening among the persons under his charge. Whoever neglects to give such notice for the space of six months after a birth or death, shall forfeit a sum not exceeding five dollars.

SECT. 3. Any physician having attended a person during his last illness, shall, when requested within fifteen days after the decease of such person, forthwith furnish for registration a certificate of the duration of the last sickness, the disease of which the person died, and the date of his decease, as nearly as he can state the same. If any physician refuses or neglects to make such certificate, he shall forfeit and pay the sum of ten dollars to the use of the town in which he resides.

SECT. 4. Every sexton, undertaker, or other person having charge of a burial-ground, or the superintendent of burials having charge of the obsequies or funeral rites preliminary to the interment of a human body, shall forthwith obtain and return to the clerk of the city or town in which the deceased resided or the death occurred, the facts required by this chapter to be recorded by said officer concerning the deceased, and the person making such return shall receive from his city or town the fee of ten cents therefor.

The clerk, upon recording such facts, shall forthwith give to the person making such return, a certificate that such return has been made, which certificate such person shall deliver to the person having charge of the interment, if other than himself, before the burial when practicable, otherwise within seven days thereafter. When a burial takes place and no certificate is delivered as aforesaid, the sexton, undertaker, or other person having charge of the interment, shall forthwith give notice thereof to the clerk under penalty of twenty dollars.

SECT. 5. The clerk of each city and town shall annually on or before the first day of February, transmit to the secretary of the commonwealth, certified copies of the records of the births, marriages, and deaths, which have occurred therein during the year ending on the last day of the preceding December.

SECT. 6. The record of the town clerk relative to any birth, marriage, or death, shall be prima facie evidence, in legal proceedings, of the facts recorded. The certificate signed by the town clerk for the time being shall be admissible as evidence of any such record.

SECT. 7. The clerk shall receive from his city or town for obtaining, recording, indexing, and returning to the secretary of the commonwealth, the facts in relation to a birth, twenty cents; a marriage, ten cents; a death, twenty cents for each of the first twenty entries, and ten cents for each subsequent entry, as the same shall be certified by the secretary of the Commonwealth; but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to their clerk. He shall forfeit a sum not less than twenty nor more than one hundred dollars for each refusal or neglect to perform any duty required of him by this chapter.

SECT. 8. The superintendents of the state almshouses at Tewksbury, Bridgewater, and Monson, shall obtain, record, and make return of, the facts in relation to the births and deaths which occur in their respective institutions, in like manner as is required of town clerks. The clerks of said towns shall, in relation to the births and deaths of persons in said almshouses, be exempt from the duties otherwise required of them by this chapter.

SECT. 9. The secretary shall at the expense of the Commonwealth prepare and furnish to the clerks of the several cities and towns, and to the superintendents of the state almshouses, blank books of suitable quality and size to be used as books of record under this chapter, blank books for indexes thereto, and blank forms for returns, on paper of uniform size; and shall accompany the same with such instructions and explanations as may be necessary and useful. City and town clerks shall make such distribution of blank forms of returns furnished by the secretary as he shall direct.

SECT. 10. The secretary shall cause the returns received by him for each year to be bound together in one or more volumes with indexes thereto. He shall prepare from the returns such tabular results as will render them of practical utility, make report thereof annually to the legislature, and do all other acts necessary to carry into effect the provisions of this chapter.

SECT. 11. Any city or town containing more than ten thousand inhabitants, may choose a person other than the clerk to be registrar, who shall be sworn, and to whom all the provisions of this chapter concerning clerks shall apply. The returns and notices required to be made and given to clerks shall be made and given to such registrar under like penalties.

SECT. 12. The secretary of this Commonwealth shall prosecute, by an action of tort, in the name of the Commonwealth, for the recovery of any penalty or forfeiture imposed by this [chapter] [*act*].

SECT. 13. Any city or town may make rules and regulations to enforce the provisions of this chapter, or to secure a more perfect registration of births, marriages, and deaths, therein.



## GENERAL STATUTES OF 1860, CHAPTER 29.

## KEEPING AND CUSTODY OF RECORDS.

SECT. 9. Registers of deeds, registers of courts, and the registers and clerks of courts, cities, and towns, shall keep all records and documents belonging to their offices in their sole custody, and shall in no case, except upon summons in due form of law, or when the temporary removal of records and documents in their custody is necessary or convenient for the transaction of the business of the courts or the performance of the duties of their respective offices, cause or permit any record or document to be removed or taken away.

SECT. 10. Under the direction of the officers having the custody of the county, city, and town records and files, the same shall be open for public inspection and examination, and any person may take copies thereof. And the several clerks and registers shall, on payment of a reasonable fee therefor, compare and certify, in the manner herein mentioned, all transcripts properly and correctly made for any county, city, or town, in pursuance of the provisions of this chapter.

## GENERAL STATUTES OF 1860, CHAPTER 106.

## OF MARRIAGE.

SECTION 1. No man shall marry his mother, grandmother, daughter, granddaughter, step-mother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, or mother's sister.

SECT. 2. No woman shall marry her father, grandfather, son, grandson, step-father, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, or mother's brother.

SECT. 3. In all cases mentioned in the two preceding sections in which the relationship is founded on marriage, the prohibition shall continue notwithstanding the dissolution of such marriage by death or divorce, unless the divorce is for a cause which shows the marriage to have been originally unlawful or void.

SECT. 4. All marriages contracted while either of the parties has a former wife or husband living, except as is provided in chapter one hundred and seven, shall be void.

SECT. 5. No insane person or idiot shall be capable of contracting marriage.

SECT. 6. When persons resident in this State, in order to evade the preceding provisions and with an intention of returning to reside in this state, go into another state or country and there have their marriage solemnized, and afterwards return and reside here, the marriage shall be deemed void in this state.

SECT. 7. Persons intending to be joined in marriage shall before their marriage cause notice thereof to be entered in the office of the clerk or registrar of the city or town in which they respectively dwell, if within the state. If there is no such clerk or registrar in the place of their residence, the entry shall be made in an adjoining city or town.

SECT. 8. The clerk or registrar shall deliver to the parties a certificate under his hand, specifying the time when notice of the intention of marriage was entered with him, together with all facts in relation to the

marriage required by law to be ascertained and recorded, except those respecting the person by whom the marriage is to be solemnized. Such certificate shall be delivered to the minister or magistrate in whose presence the marriage is to be contracted, before he proceeds to solemnize the same.

SECT. 9. If a clerk or registrar issues such certificate to a male under the age of twenty-one years, or a female under the age of eighteen years, having reasonable cause to suppose the person to be under such age, except upon the application or consent in writing of the parent, master, or guardian, of such person, he shall forfeit a sum not exceeding one hundred dollars; but if there is no parent, master, or guardian, in this state competent to act, a certificate may be issued without such application or consent.

SECT. 10. The clerk or registrar may require of any person applying for such certificate, an affidavit sworn to before a justice of the peace for the county where the application is made, setting forth the age of the parties; which affidavit shall be sufficient proof of age to authorize the issuing of the certificate.

SECT. 11. Whoever applying for such certificate wilfully makes a false statement in relation to the age or residence, parent, master, or guardian, of either of the parties intending marriage, shall forfeit a sum not exceeding two hundred dollars.

SECT. 12. When a marriage is solemnized in another state between parties living in this state, and they return to dwell here, they shall within seven days after their return file with the clerk or registrar of the city or town where either of them lived at the time, a certificate or declaration of their marriage, including the facts concerning marriages required by law, and for every neglect they shall forfeit ten dollars.

SECT. 13. No magistrate or minister shall solemnize a marriage, having reasonable cause to suppose either of the parties to be under the age mentioned in section nine, without the consent of the parent or guardian having the custody of the minor, if there is any in the state competent to act.

SECT. 14. Marriages may be solemnized by a justice of the peace in the county for which he is appointed, when either of the parties resides in the same county; and throughout the state by any minister of the gospel ordained according to the usage of his denomination, who resides within the state and continues to perform the functions of his office; but all marriages shall be solemnized in the city or town in which the person solemnizing them resides, or in which one or both of the persons to be married reside.

SECT. 15. Marriages among the people called Friends or Quakers may be solemnized in the manner heretofore used and practised in their societies.

SECT. 16. Every justice of the peace, minister, and clerk, or keeper of the records of the meeting wherein any marriages among the Friends or Quakers are solemnized, shall make a record of each marriage solemnized before him, together with all facts relating to the marriage required by law to be recorded. He shall also between the first and tenth days of each month return a copy of the record for the month next preceding, to the clerk or registrar of the city or town in which the marriage was solemnized, and shall, when neither of the parties to a marriage resides in the city or town in which the marriage is solemnized, return a copy of the record of such marriage to the clerk or registrar of the city or town in which one or both of said parties reside. All marriages so returned shall be recorded by the clerk or registrar.

SECT. 17. Every person neglecting to make the returns required by the preceding section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

SECT. 18. A justice of the peace or minister who joins persons in



marriage contrary to the provisions of this chapter, knowing that the marriage is not duly authorized, shall forfeit not less than fifty nor more than one hundred dollars.

SECT. 19. Whoever undertakes to join persons in marriage knowing that he is not authorized so to do, shall be imprisoned in the jail or confined to hard labor for a term not exceeding six months, or pay a fine of not less than fifty nor more than two hundred dollars.

SECT. 20. No marriage solemnized before a person professing to be a justice of the peace or minister of the gospel, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected, by want of jurisdiction or authority in such person, or by an omission or informality in the manner of entering the intention of marriage, if the marriage is in other respects lawful, and is consummated with a full belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

SECT. 21. The record of a marriage, made and kept as prescribed by law by the person before whom the marriage is solemnized, or by the clerk or registrar of any city or town, or a copy of such record duly certified, shall be received in all courts and places as presumptive evidence of such marriage.

SECT. 22. When the fact of marriage is required or offered to be proved before any court, evidence of the admission of such fact by the party against whom the process is instituted, or of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which the fact may be inferred, shall be competent.

SECT. 23. Marriages solemnized in a foreign country by a consul or diplomatic agent of the United States shall be valid in this State; and a copy of the record of a certificate from such consul or agent shall be presumptive evidence of such marriage.

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## GENERAL STATUTES OF 1860, CHAPTER 157.

### TOWN CLERKS.

SECT. 9. For entering notice of an intention of marriage and issuing the certificate thereof, and for entering the certificate of marriage filed by persons married out of the State, fifty cents, to be paid by the parties:

For a certificate of a birth or death, ten cents:

For copies of town records and other documents furnished to any person at his request, if containing less than one page, ten cents, and if more, at the rate of twelve cents a page.

### MINISTERS, ETC., FOR MARRIAGES.

SECT. 10. For lawfully solemnizing and certifying a marriage by a minister or justice of the peace, one dollar and twenty-five cents.

SECT. 15. The word "page" when used as the measure of computation, shall mean two hundred and twenty-four words.

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## CHAPTER 96 OF ACTS OF 1865.

### AN ACT RELATING TO THE REGISTRY AND RETURN OF BIRTHS.

*Be it enacted, etc., as follows:*

SECTION 1. It shall be the duty of every physician and midwife in the several cities and towns in this Commonwealth, on or before the tenth day of each month, to forward to the clerk of each city and town

a correct list of the births of all children born therein during the month next preceding, at which such physician or midwife was present ; stating therein, as nearly as practicable, the place and date of each birth, the name, sex, and color of the child, the names, places of birth, and residence of the parents, and the occupation of the father.

SECT. 2. For every certificate of a birth, the physician or midwife shall receive twenty-five cents from such city or town ; and any physician or midwife neglecting to forward such list for six months after it is due, shall forfeit a sum not exceeding five dollars, to be recovered as provided in the twelfth section of the twenty-first chapter of the General Statutes.

SECT. 3. This act shall take effect upon its passage.

*Approved March 24, 1865.*

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## CHAPTER 138 OF ACTS OF 1866.

### AN ACT CONCERNING THE REGISTRY AND RETURN OF MARRIAGES, BIRTHS, AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. The clerk of each city and town except in such cities and towns as choose a registrar, under the eleventh section of the twenty-first chapter of the General Statutes, in which cases the provisions of this act shall apply to the registrar, for receiving or obtaining, recording, indexing and returning the facts relating to marriages, births and deaths occurring therein, shall be entitled to receive therefrom the sums following, viz. : for each marriage, fifteen cents ; for each birth, thirty cents ; for each death returned to him by the persons specified in sections two, three and four of chapter twenty-one of the General Statutes, twenty cents for each of the first twenty entries, and ten cents for each subsequent entry ; for each death not so returned, but by him obtained and recorded, twenty cents.

SECT. 2. Chapter ninety-six of the acts of the year eighteen hundred and sixty-five, and so much of section seven of the twenty-first chapter of the General Statutes as is inconsistent herewith, are hereby repealed.

SECT. 3. This act shall take effect upon its passage.

*Approved April 7, 1866.*

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## CHAPTER 58 OF ACTS OF 1867.

### AN ACT RELATING TO THE MARRIAGE OF NON-RESIDENT PARTIES.

*Be it enacted, etc., as follows :*

SECTION 1. Persons living without the Commonwealth and intending to be joined in marriage within the Commonwealth, shall, before their marriage, cause notice of their intention to be entered in the office of the clerk or registrar of the city or town in which they propose to have the marriage solemnized ; and no marriage between such parties shall be solemnized until they shall have delivered to the justice of the peace, or minister, in whose presence the marriage is to be contracted, a certificate from such clerk or registrar, specifying the time when notice of the intention of marriage was entered with him, together with all the facts in relation to the marriage required by law to be ascertained and recorded, except those respecting the person by whom the marriage is to be solemnized.

SECT. 2. Marriages may be solemnized by a justice of the peace in the county for which he is appointed.



SECT. 3. A justice of the peace or minister who joins persons in marriage contrary to the provisions of this act shall forfeit not less than fifty nor more than one hundred dollars.

*Approved March 11, 1867.*

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## CHAPTER 248 OF ACTS OF 1867.

### AN ACT IN RELATION TO MARRIAGE CONTRACTS.

*Be it enacted, etc., as follows :*

SECTION 1. No marriage contract heretofore made between parties, both of whom are now living, or which may be hereafter made, shall be invalid as between the parties thereto and their heirs and personal representatives by reason of the failure to record the same as required by section twenty-eight of chapter one hundred and eight of the General Statutes.

SECT. 2. This act shall take effect upon its passage.

*Approved May 18, 1867.*

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## CHAPTER 145 OF ACTS OF 1873.

### AN ACT FIXING THE FEES OF CLERKS AND REGISTRARS FOR THE REGISTRY AND RETURN OF BIRTHS.

*Be it enacted, etc., as follows :*

SECTION 1. The clerk or registrar of a city or town shall receive the sum of fifty cents for receiving or obtaining, recording, indexing and returning the facts relating to each birth ; but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to their clerk or registrar.

SECT. 2. This act shall take effect upon its passage.

*Approved April 2, 1873.*

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## CHAPTER 202 OF ACTS OF 1873.

### AN ACT RELATING TO THE FEES OF SEXTONS AND OTHERS.

*Be it enacted, etc., as follows :*

SECTION 1. Section four of chapter twenty-one of the General Statutes is amended by striking out the word "ten" after the words "fee of," and inserting instead thereof the word "twenty-five."

SECT. 2. This act shall take effect upon its passage.

*Approved April 16, 1873.*

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## CHAPTER 341 OF ACTS OF 1873.

### AN ACT CONCERNING FEES OF TOWN CLERKS FOR OBTAINING AND RECORDING THE FACTS RELATING TO DEATHS.

*Be it enacted, etc., as follows :*

Chapter one hundred and thirty-eight of the acts of the year eighteen hundred and sixty-six is amended by striking out the words "twenty cents" at the close of section one, and substituting therefor the words "thirty-five cents."

*Approved June 6, 1873.*

CHAPTER 21 OF ACTS OF 1875.

AN ACT TO AMEND SECTION FIVE OF CHAPTER TWENTY-ONE OF THE GENERAL STATUTES, IN RELATION TO THE REGISTRY AND RETURNS OF BIRTHS, MARRIAGES AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. Section five of chapter twenty-one, of the General Statutes, is hereby amended by striking out the word "February" in the second line of said section and inserting in place thereof the word "March."

SECT. 2. This act shall take effect upon its passage.

*Approved February 19, 1875.*

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CHAPTER 174 OF ACTS OF 1878.

AN ACT TO PROVIDE FOR THE MORE ACCURATE REGISTRATION OF VITAL STATISTICS.

*Be it enacted, etc., as follows :*

SECTION 1. No human body shall be buried, or removed from any city or town, until a proper certificate has been given by the clerk or local registrar of statistics to the undertaker or sexton, or person performing the burial, or removing the body. This certificate shall state that the facts required by chapter twenty-one of the General Statutes have been returned and recorded; and no clerk or local registrar shall give such certificate or burial permit until the certificate of the cause of death has been obtained from the physician, if any, in attendance at the last sickness of the deceased, and placed in the hands of said clerk or local registrar: *provided*, that in those cities and towns where local boards of health have been established, the certificate of the cause of death shall be approved by such board before a permit to bury is given by the registrar or clerk. Upon application, the chairman of the local board of health or any physician employed by any city or town for such purpose, shall sign the certificate of the cause of death to the best of his knowledge and belief, if there has been no physician in attendance. He shall also sign such certificate, upon application, in case of death by dangerous contagious disease, or in any other event when the certificate of the attending physician cannot for good and sufficient reasons be early enough obtained. In case of death by violence, the medical examiner attending shall furnish the requisite medical certificate. Any person violating the provisions of this section shall be punished by a fine not exceeding twenty-five dollars.

SECT. 2. This act shall take effect on the first day of May in the year eighteen hundred and seventy-eight; and all acts and parts of acts inconsistent herewith are hereby repealed.

*Approved April 23, 1878.*

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CHAPTER 7 OF ACTS AND RESOLVES OF 1879.

RESOLVE RELATING TO THE TRANSFER OF CERTAIN RECORD OF MARRIAGES FOR THE COUNTY OF SUFFOLK FROM THE YEAR SEVENTEEN HUNDRED AND SIXTEEN TO THE YEAR SEVENTEEN HUNDRED AND THIRTY-ONE.

*Resolved*, That the clerk of the supreme judicial court for the county of Suffolk transfer to the city registrar of the city of Boston, the volume



containing the record of marriages in Suffolk county from the year seventeen hundred and sixteen to the year seventeen hundred and thirty-one inclusive.

*Approved February 19, 1879.*

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## CHAPTER 116 OF ACTS OF 1879.

### AN ACT IN RELATION TO RETURNS OF MARRIAGES.

*Be it enacted, etc., as follows :*

SECTION 1. Every justice of the peace, minister, and clerk, or keeper of the records of the meeting wherein any marriages among the Friends or Quakers are solemnized, shall make a record of each marriage solemnized before him, together with all facts relating to the marriage required by law to be recorded. He shall also between the first and tenth days of each month return a copy of the record for the month next preceding, to the clerk or registrar of the city or town in which the marriage was solemnized, and shall, when one or both of the parties to a marriage resides in a city or town other than that in which the marriage is solemnized, return a copy of the record of such marriage to the clerk or registrar of the city or town in which either party resides, and to both cities or towns when the parties reside in different places. All marriages so returned shall be recorded by the clerk or registrar.

SECT. 2. Every person neglecting to make the returns required by the preceding section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

SECT. 3. Sections sixteen and seventeen of chapter one hundred and six of the General Statutes are hereby repealed.

*Approved March 13, 1879.*

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## CHAPTER 33 OF ACTS OF 1880.

### AN ACT TO COMPEL A MORE ACCURATE REGISTRATION OF BIRTHS.

*Be it enacted, etc., as follows :*

SECTION 1. It shall be the duty of every physician and midwife in the several cities and towns in this Commonwealth, excepting Boston, to report on or before the fifth day of each month to the clerk of each city and town a correct list of births of all children born therein during the month next preceding at which such physician or midwife was present, stating therein the place, date of each birth, and parents' names.

SECT. 2. Town and city clerks shall give public notice that they are prepared to furnish the necessary blanks to all physicians and midwives applying therefor.

SECT. 3. Any physician or midwife neglecting to report such list for ten days after it is due shall for each offence forfeit a sum not exceeding twenty dollars.

SECT. 4. This act shall take effect upon its passage.

*Approved February 26, 1880.*

CHAPTER 11 OF ACTS OF 1881.

AN ACT CONCERNING MARRIAGES IN THE SOCIETY OF FRIENDS.

*Be it enacted, etc., as follows :*

SECTION 1. Section sixteen of chapter one hundred and six of the General Statutes is hereby amended by inserting after the word "him," in the fourth line, the words "or in the said meeting."

SECT. 2. Section twenty of said chapter is hereby amended by inserting after the word "gospel," in the second line, the words "or in the Society of Friends according to its usages," and by inserting after the word "person," in the fourth line, the words "or Society of Friends."

SECT. 3. This act shall take effect upon its passage.

*Approved February 9, 1881.*

CHAPTER 32 OF THE PUBLIC STATUTES.

[Enacted November 19, 1881, to take effect February 1, 1882.]

RECORDS OF BIRTHS, MARRIAGES AND DEATHS.

SECTION 1. The clerk of each city and town shall receive or obtain and record and index, the following facts concerning the births, marriages and deaths therein, separately numbering and recording the same in the order in which he receives them, designating in separate columns as follows :

In the record of births, the date of birth, the place of birth, the name of the child, (if it has any,) the sex and color of the child, the names and places of birth of the parents, the occupation of the father, the residence of the parents, and the date of the record.

In the record of marriages, the date of the marriage, the place of marriage, the name, residence and official station of the person by whom married, the names and the places of birth of the parties, the residence of each, the age and color of each, the condition of each, (whether single or widowed,) the occupation, the names of the parents, and the date of the record.

In the record of deaths, the date of the death, the name of the deceased, the sex, the color, the condition, (whether single, widowed, or married,) the age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of the parents, the disease or cause of death, the place of burial, and the date of the record.

SECT. 2. Parents shall give notice to the clerk of their city or town of the births and deaths of their children ; every householder shall give like notice of every birth and death happening in his house ; the eldest person next of kin shall give such notice of the death of his kindred ; the keeper of a workhouse, house of correction, prison, hospital, or almshouse, except the State almshouse, and the master or other commanding officer of a ship, shall give like notice of every birth and death happening among the persons under his charge. Whoever neglects to give such notice for the space of six months after a birth or death shall forfeit a sum not exceeding five dollars.

SECT. 3. A physician who has attended a person during his last illness shall, when requested within fifteen days after the decease of such person, forthwith furnish for registration a certificate of the duration of the last sickness, the disease of which the person died, and the date of his decease, as nearly as he can state the same. If a physician refuses



or neglects to make such certificate, he shall forfeit ten dollars to the use of the town in which he resides.

SECT. 4. Every sexton, undertaker, or other person having charge of a burial-ground, and every undertaker or superintendent of burials having charge of the funeral rites preliminary to the interment of a human body, shall forthwith obtain and return to the clerk of the city or town in which the deceased resided, or the death occurred, the facts required by this chapter to be recorded by said officer concerning the deceased, and the person making such return shall receive from his city or town the fee of twenty-five cents therefor.

SECT. 5. No human body shall be buried or removed from any city or town until a proper certificate has been given by the clerk or registrar to the undertaker, sexton or other person performing the burial or removing the body. Such certificate shall state that the facts required by this chapter have been returned and recorded; and no clerk or registrar shall give such certificate or burial permit until the certificate of the cause of death has been obtained from the physician, if any, in attendance at the last sickness of the deceased, and placed in the hands of said clerk or registrar; and in cities and towns where there are boards of health, the certificate of the cause of death shall also be approved by such board before a permit to bury is given by the registrar or clerk. Upon application, the chairman of the board of health, or any physician employed by any city or town for such purpose, shall sign the certificate of the cause of death to the best of his knowledge and belief, if there has been no physician in attendance. He shall also sign such certificate, upon application, in case of death by dangerous contagious disease, or in any other event when the certificate of the attending physician cannot for good and sufficient reasons be early enough obtained. In case of death by violence, the medical examiner attending shall furnish the requisite medical certificate. Any person violating the provisions of this section shall be punished by fine not exceeding twenty-five dollars.

SECT. 6. The boards of health of towns and the mayor and aldermen of cities shall, on or before the first day of July in each year, license a suitable number of undertakers to take charge of the funeral rites preliminary to the interment of a human body.

SECT. 7. Physicians and midwives shall on or before the fifth day of each month report to the clerk of each city and town, except Boston, a correct list of all children born therein during the month next preceding at the birth of which they were present, stating the place and date of each birth, and the parents' names.

SECT. 8. The clerk of each city and town shall give public notice that he is prepared to furnish, to all physicians and midwives applying therefor, blanks for returns under the preceding section.

SECT. 9. Any physician or midwife neglecting to report such list for ten days after it is due shall for each offence forfeit a sum not exceeding twenty dollars.

SECT. 10. The clerk of each city and town shall annually, on or before the first day of March, transmit to the secretary of the commonwealth certified copies of the records of the births, marriages and deaths which have occurred therein during the year ending on the last day of the preceding December.

SECT. 11. The record of the town clerk relative to a birth, marriage or death, shall be prima facie evidence, in legal proceedings, of the facts recorded. A certificate, signed by the town clerk for the time being, shall be admissible as evidence of such record.

SECT. 12. The clerk of each city and town, (except in such cities and towns as choose a registrar, in which cases the provisions of this section shall apply to the registrar,) for receiving or obtaining, recording, indexing, and returning the facts relating to marriages,

births and deaths occurring therein, shall be entitled to receive from the city or town for each marriage, fifteen cents; for each birth, fifty cents; for each death returned to him by the persons specified in sections two, three, and four, twenty cents for each of the first twenty entries, and ten cents for each subsequent entry; for each death not so returned, but by him obtained and recorded, thirty-five cents, as the same shall be certified by the secretary of the commonwealth; but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to their clerk or registrar. He shall forfeit not less than twenty nor more than one hundred dollars for each refusal or neglect to perform any duty required of him by sections one, two, three, four, ten, twelve, fourteen, sixteen, and eighteen.

SECT. 13. The superintendent of the state almshouse shall obtain, record, and make return of the facts in relation to the births and deaths which occur in his institution, in like manner as is required of town clerks. The clerk of a town in which such almshouse is located shall, in relation to the births and deaths of persons in said almshouse, be exempt from the duties otherwise required of him by this chapter.

SECT. 14. The secretary shall at the expense of the commonwealth prepare and furnish to the clerks of the several cities and towns, and to the superintendent of the state almshouse, blank books of suitable quality and size to be used as books of record under this chapter, blank books for indexes thereto, and blank forms for returns, on paper of uniform size; and shall accompany the same with such instructions and explanations as may be necessary and useful. City and town clerks shall make such distribution of blank forms of returns furnished by the secretary as he shall direct.

SECT. 15. The secretary shall cause the returns received by him for each year to be bound together in one or more volumes with indexes thereto. He shall prepare from the returns such tabular results as will render them of practical utility, make report thereof annually to the general court, and do all other acts necessary to carry into effect the provisions of this chapter.

SECT. 16. A city or town containing more than ten thousand inhabitants may choose a person other than the clerk to be registrar, who shall be sworn, and to whom all the provisions of this chapter concerning clerks shall apply. The returns and notices required to be made and given to clerks shall be made and given to such registrar under like penalties.

SECT. 17. The secretary of the Commonwealth shall prosecute, by an action of tort in the name of the Commonwealth, for the recovery of any penalty or forfeiture imposed by sections two, three, twelve, sixteen, and eighteen.

SECT. 18. A city or town may make rules and regulations to enforce the provisions of this chapter, or to secure a more perfect registration of births, marriages, and deaths therein.

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## CHAPTER 37 OF THE PUBLIC STATUTES.

### OF THE PUBLIC RECORDS.

SECT. 5. A city or town may cause to be carefully copied such of its records as relates to grants of land, — and also any records of births and marriages kept by such city or town or by a parish within the same.

SECT. 12. Registers of deeds and the registers and clerks of courts, cities and towns shall keep all records and documents belonging to their respective offices in their sole custody, and shall in no case, except upon summons in due form of law or when the temporary removal of



records and documents in their custody is necessary or convenient for the transaction of the business of the courts or the performance of the duties of their respective offices, cause or permit any record or document to be removed therefrom.

SECT. 13. Under the direction of the officers having the custody of any county, city or town records or files, all such records and files shall be open for public inspection and examination, and any person may take copies thereof. And the several clerks and registers shall, on payment of a reasonable fee therefor, compare and certify all copies properly and correctly made in pursuance of the provisions of this chapter.

## CHAPTER 145 OF THE PUBLIC STATUTES.

### OF MARRIAGE.

#### CERTAIN MARRIAGES PROHIBITED.

SECTION 1. No man shall marry his mother, grandmother, daughter, granddaughter, step-mother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, or mother's sister.

SECT. 2. No woman shall marry her father, grandfather, son, grandson, step-father, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, or mother's brother.

SECT. 3. In all cases in which the relationship mentioned in the two preceding sections is founded on marriage, the prohibition shall continue notwithstanding the dissolution by death or divorce of the marriage on which such relationship is founded, unless the divorce is for a cause which shows such marriage to have been originally unlawful or void.

SECT. 4. All marriages contracted while either of the parties has a former wife or husband living, except as is provided in chapter one hundred and forty-six, shall be void.

SECT. 5. No insane person or idiot shall be capable of contracting marriage.

SECT. 6. No magistrate or minister shall solemnize a marriage, when he has reasonable cause to suppose the male to be under the age of twenty-one years or the female to be under the age of eighteen years, except with the consent of the parent or guardian having the custody of the minor, if there is any such parent or guardian in the Commonwealth competent to act.

SECT. 7. Every marriage solemnized within this Commonwealth, which is prohibited on account of consanguinity or affinity between the parties, or on account of either of them having a former wife or husband living, or when either party was insane or an idiot, shall be void without a decree of divorce or other legal process.

SECT. 8. Every marriage solemnized when either party was under the age of consent shall be similarly void, if the parties separate during such nonage, and do not afterwards cohabit.

SECT. 9. The validity of a marriage shall not be questioned in the trial of a collateral issue on account of the insanity or idiocy of either party, but such question shall only be raised in a process instituted to test such validity in the lifetime of both parties.

SECT. 10. When persons resident in this Commonwealth, in order to evade any of the provisions of the first five sections of this chapter, and with an intention of returning to reside in this Commonwealth, go into another state or country and there have their marriage solemn-

nized, and afterwards return and reside here, the marriage shall be deemed void in this Commonwealth.

SECT. 11. When the validity of a marriage is doubted, either party may file a libel for annulling such marriage, or, when the validity of a marriage is denied or doubted by either party, the other party may file a libel for affirming the same. Such libel shall be filed in the same manner as a libel for divorce, and all the provisions of chapter one hundred and forty-six relative to libels for divorce, and section twenty-four of said chapter, relative to the powers of the court in relation thereto, shall, so far as applicable, apply to libels under this section. Upon proof of the nullity or validity of the marriage, it shall be declared void, or affirmed by a decree of the court, and such decree of nullity may be made notwithstanding the marriage was solemnized out of the Commonwealth, if the libellant had his domicile in the Commonwealth when the marriage was solemnized and also when the libel was filed, and such decree affirming a marriage shall be conclusive upon all persons concerned.

#### LEGITIMACY, CARE, ETC., OF ISSUE OF VOID MARRIAGES.

SECT. 12. The issue of a marriage declared void on account of consanguinity or affinity between the parties shall be deemed to be illegitimate.

SECT. 13. The issue of a marriage declared void on account of the nonage, insanity or idiocy of either party shall be deemed to be the legitimate issue of the parent who was capable of contracting the marriage.

SECT. 14. When a marriage is declared void on account of a prior marriage of either party, and it appears that the second marriage was contracted in good faith and with the full belief of the parties that the former husband or wife was dead, that fact shall be stated in the decree, and the issue of the second marriage, born or begotten before the commencement of the suit, shall be deemed to be the legitimate issue of the parent capable of contracting the marriage.

SECT. 15. Upon or after a decree of nullity the court shall have similar power to make orders concerning the care, custody and maintenance of the minor children of the parties as upon a decree of divorce.

#### NOTICE OF INTENTION OF MARRIAGE.

SECT. 16. Persons intending to be joined in marriage in this Commonwealth shall before their marriage cause notice of their intention to be entered in the office of the clerk or registrar of the city or town in which they respectively dwell, or, if they do not dwell within the Commonwealth, in the office of the clerk or registrar of the city or town in which they propose to have the marriage solemnized. If there is no such clerk or registrar in the place of their residence, the entry shall be made in an adjoining city or town.

SECT. 17. The clerk or registrar shall deliver to the parties a certificate under his hand, specifying the time when notice of the intention of marriage was entered with him, together with all facts in relation to the marriage which are required by law to be ascertained and recorded, except those respecting the person by whom the marriage is to be solemnized. Such certificate shall be delivered to the minister or magistrate before whom the marriage is to be contracted, before he proceeds to solemnize the same.

SECT. 18. If a clerk or registrar issues such certificate to a male under the age of twenty-one years, or to a female under the age of eighteen years, when he has reasonable cause to suppose the person to be under such age, except upon the application or consent in writing of the parent, master or guardian of such person, he shall forfeit a



sum not exceeding one hundred dollars; but if there is no parent, master or guardian in this Commonwealth competent to act, a certificate may be issued without such application or consent.

SECT. 19. The clerk or registrar may require of any person applying for such certificate an affidavit setting forth the age of the parties; which affidavit shall be sworn to before a justice of the peace, and shall be sufficient proof of age to authorize the issuing of the certificate.

SECT. 20. Whoever, when applying for such certificate, wilfully makes a false statement in relation to the age, residence, parent, master or guardian of either of the parties intending marriage, shall forfeit a sum not exceeding two hundred dollars.

SECT. 21. When a marriage is solemnized in another state between parties living in this Commonwealth, and they return to dwell here, they shall within seven days after their return file with the clerk or registrar of the city or town where either of them lived at the time a certificate or declaration of their marriage, including the facts concerning marriages required by law; and for every neglect so to do they shall forfeit ten dollars.

#### BY WHOM AND HOW MARRIAGE MAY BE SOLEMNIZED.

SECT. 22. A marriage may be solemnized by a justice of the peace or by a minister of the gospel, ordained according to the usage of his denomination, who resides in the Commonwealth and continues to perform the functions of his office; but every marriage shall be solemnized in the city or town in which the person solemnizing it resides, or in which one or both of the persons to be married reside.

SECT. 23. A marriage among the people called Friends or Quakers may be solemnized in the manner heretofore used and practised in their societies.

SECT. 24. Every justice of the peace, minister and clerk or keeper of the records of a meeting wherein marriages among Friends or Quakers are solemnized shall make a record of each marriage solemnized before him, or in such meeting, and of all facts relating to the marriage which are required by law to be recorded. He shall also, between the first and tenth days of each month, return a copy of all such records for the month next preceding to the clerk or registrar of the city or town in which the marriage was solemnized, and shall, when one or both of the parties to the marriage resided in a city or town other than that in which the marriage was solemnized, return a copy of the record of such marriage to the clerk or registrar of the city or town in which either party resided, and to the clerks or registrars of both cities or towns when the parties resided in different places. All marriages so returned shall be recorded by the clerk or registrar, and every person neglecting to make the returns required by this section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

SECT. 25. A justice of the peace or minister who joins persons in marriage contrary to the provisions of this chapter, knowing that the marriage is not duly authorized, shall forfeit not less than fifty nor more than one hundred dollars.

SECT. 26. Whoever undertakes to join persons in marriage, knowing that he is not authorized so to do, shall be imprisoned in the jail for a term not exceeding six months, or pay a fine of not less than fifty nor more than two hundred dollars.

SECT. 27. No marriage solemnized before a person professing to be a justice of the peace or a minister of the gospel, or solemnized in the society of Friends according to the usages of said society, shall be deemed or adjudged to be void, nor shall the validity thereof be in any way affected by want of jurisdiction or authority in such person or society, or by an omission or by informality in the manner of enter-

ing the intention of marriage, if the marriage is in other respects lawful, and is consummated with a full belief on the part of the persons so married, or of either of them, that they have been lawfully joined in marriage.

SECT. 28. Marriages solemnized in a foreign country by a consul or diplomatic agent of the United States shall be valid in this Commonwealth.

EVIDENCE OF MARRIAGE.

SECT. 29. The record of a marriage, made and kept as prescribed by law by the person before whom the marriage has been solemnized, or by the clerk or registrar of a city or town, or a copy of such record duly certified, shall be received in all courts and places as presumptive evidence of such marriage.

SECT. 30. When a marriage has been solemnized by a consul or diplomatic agent of the United States, a copy of the record or a certificate from such consul or agent shall be presumptive evidence of such marriage.

SECT. 31. When the fact of marriage is required or offered to be proved before a court, evidence of the admission of such fact by the party against whom the process is instituted, or evidence of general repute or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which the fact may be inferred, shall be competent.

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CHAPTER 199 OF THE PUBLIC STATUTES.

TOWN CLERKS.

SECT. 16. The fees of town clerks shall be as follows:

For entering notice of an intention of marriage and issuing the certificate thereof, and for entering the certificate of marriage filed by persons married out of the state, fifty cents, to be paid by the parties.

For a certificate of a birth or death, ten cents.

MINISTERS, ETC., FOR MARRIAGES.

SECT. 17. For lawfully solemnizing and certifying a marriage, a minister or justice of the peace shall be entitled to receive one dollar and twenty-five cents.

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CHAPTER 207 OF THE PUBLIC STATUTES.

FRAUDULENT NOTICES.

SECT. 68. Whoever wilfully sends to the publisher of a newspaper, for the purpose of publication, a false notice of a birth, marriage or death, shall be punished by fine not exceeding one hundred dollars.

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CHAPTER 124 OF ACTS OF 1883.

AN ACT RELATING TO THE REMOVAL AND TRANSPORTATION OF CERTAIN BODIES FOR BURIAL.

*Be it enacted, etc., as follows:*

SECTION 1. Section five of chapter thirty-two of the Public Statutes, relating to the burial or removal of bodies for burial, is amended by inserting in the eleventh line thereof, after the word "bury," the words "or remove."



SECT. 2. No railroad corporation, or other common carrier or person, shall convey or cause to be conveyed, through or from any city or town in this Commonwealth, the remains of any person who has died of small-pox, scarlet fever, diphtheria, or typhoid fever, until such body has been so encased and prepared as to preclude any danger of communicating the disease to others by its transportation; and no local registrar or clerk shall give a permit for the removal of such body until he has received from the board of health of the city, or the selectmen of the town where the death occurred, a certificate, stating the cause of death, and that said body has been prepared in the manner set forth in this section, which certificate shall be delivered to the agent or person who receives the body.

SECT. 3. This act shall take effect upon its passage.

*Approved April 11, 1883.*

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#### CHAPTER 158 OF ACTS OF 1883.

##### AN ACT IN RELATION TO THE RETURNS OF BIRTHS BY PHYSICIANS AND MIDWIVES.

*Be it enacted, etc., as follows :*

SECTION 1. Section seven of chapter thirty-two of the Public Statutes is amended so as to read as follows: "Sect. 7. Physicians and midwives shall on or before the fifth day of each month report to the clerk of each city or town, except Boston, a correct list of all children born therein during the month next preceding, at whose birth they were present, stating the date and place of each birth, the name of the child (if it has any), the sex and color of the child, the name, place of birth and residence of the parents, and the occupation of the father. The fee of the physician or midwife shall be twenty-five cents for each birth so reported, and shall be paid by the city or town in which the report is made."

SECT. 2. This act shall take effect upon its passage.

*Approved May 3, 1883.*

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#### CHAPTER 36 OF ACTS OF 1886.

##### AN ACT TO AMEND SECTION ELEVEN OF CHAPTER ONE HUNDRED AND FORTY-FIVE OF THE PUBLIC STATUTES RELATING TO MARRIAGE.

*Be it enacted, etc., as follows :*

SECTION 1. Section eleven of chapter one hundred and forty-five of the Public Statutes is hereby amended, by inserting in the fourteenth line of said section after the word "filed," the following words: — or has resided in this Commonwealth for five years next preceding the filing of said libel, unless it appears that said libellant has removed into this Commonwealth for the purpose of obtaining said decree.

SECT. 2. This act shall take effect upon its passage.

*Approved March 2, 1886.*

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#### CHAPTER 202 OF ACTS OF 1887.

##### AN ACT IN RELATION TO THE RETURN AND RECORD OF BIRTHS MARRIAGES AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. Section five of chapter thirty-seven of the Public Statutes is hereby amended by inserting the word: — deaths, — after the

word "births" in the fourth line thereof, so that the same shall read: — also any records of births, deaths and marriages kept by such city or town or by a parish within the same.

SECT. 2. Section four of chapter thirty-two of the Public Statutes is hereby amended by adding at the end thereof the words: — all such returns shall be preserved by said clerk or registrar, and filed, arranged and indexed conveniently for examination and reference.

SECT. 3. Section twenty-four of chapter one hundred and forty-five is hereby amended by adding at the end thereof the words: — all such returns shall be preserved by said clerk or register, and filed, arranged and indexed conveniently for examination and reference.

SECT. 4. The provisions of sections two and three of this act shall apply to all returns of marriages and deaths now in the offices of town and city clerks and city registrars.

SECT. 5. Section one of chapter thirty-two of the Public Statutes is hereby amended by inserting after the word "burial" in the twentieth line of said section the words: — if the deceased was a married woman the name of her husband.

SECT. 6. This act shall take effect upon its passage.

*Approved April 20, 1887.*

## CHAPTER 63 OF ACTS OF 1888.

AN ACT TO AMEND SECTION THREE OF CHAPTER THIRTY-TWO OF THE PUBLIC STATUTES RELATING TO THE FURNISHING, BY PHYSICIANS, OF CERTIFICATES OF DEATH.

*Be it enacted, etc., as follows:*

SECTION 1. Section three of chapter thirty-two of the Public Statutes is hereby amended by striking out after the words "when requested" in the second line thereof, the words "within fifteen days after the decease of such person."

SECT. 2. This act shall take effect upon its passage.

*Approved February 27, 1888.*

## CHAPTER 306 OF ACTS OF 1888.

AN ACT RELATING TO THE CERTIFICATES AND REGISTRY OF DEATHS, AND THE BURIAL AND REMOVAL OF BODIES OF DECEASED PERSONS.

*Be it enacted etc., as follows:*

SECTION 1. Section three of chapter thirty-two of the Public Statutes, requiring attending physicians to furnish for registration certain facts relating to deceased persons, is amended so as to read as follows: — *Section 3.* A physician who has attended a person during his last illness shall, when requested, forthwith furnish for registration, a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died, the duration of his last sickness, and the date of his decease. If the physician neglect or refuse to make a certificate as aforesaid, he shall be punished by a fine not exceeding fifty dollars.

SECT. 2. Section five of said chapter, prohibiting the burial or removal of a human body until a proper certificate is furnished, is amended so as to read as follows:

*Section 5.* No undertaker, sexton or any other person shall bury in a city or town or remove therefrom the



body of a deceased person until he has received a permit so to do from the board of health or its duly appointed agent, or, if there is no board of health in such city or town, from the city or town clerk. No such permit shall be issued until there has been delivered to such board, or agent or clerk, as the case may be, a satisfactory written statement containing the facts required by this chapter to be returned and recorded, together with the certificate of the attending physician, if any, as required by section three of this chapter, or in lieu thereof a certificate as hereinafter provided. If there is no attending physician, or if the certificate of the attending physician cannot be obtained, for good and sufficient reasons, early enough for the purpose, the chairman of the board of health or any physician employed by a city or town for the purpose shall, upon request of said board, agent or clerk, make such certificate as is required of the attending physician; and in case of death by violence the medical examiner shall, if requested, make the same. When such satisfactory statement and certificate are delivered to the board of health or to its agent, the board or agent shall forthwith countersign and transmit the same to the clerk or registrar for registration. The person to whom the permit is so given shall thereafter furnish for registration any other information as to the deceased or to the manner and cause of the death, as the clerk or registrar may require. Any person violating any of the provisions of this section shall be punished by a fine not exceeding fifty dollars.

*Approved May 4, 1888.*

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## CHAPTER 208 OF ACTS OF 1889.

### AN ACT IN RELATION TO THE RETURNS OF BIRTHS AND DEATHS.

*Be it enacted, etc., as follows :*

SECTION 1. The clerk or registrar of each city and town shall on the first day of each month make a certified copy of the record of all deaths and births recorded in the books of said city or town during the previous month, whenever the deceased person or the parents of the child born, were resident in any other city or town in this Commonwealth at the time of said death or birth; and shall transmit said certified copies to the clerk or registrar of the city or town in which such deceased person or parents were resident at the time of said death or birth, stating in addition the name of the street and number of the house, if any, where such deceased person or parents so resided, whenever the same can be ascertained; and the clerk or registrar so receiving such certified copies shall record the same in the books kept for recording deaths or births. Such certified copies shall be made upon blanks to be furnished for that purpose by the secretary of the Commonwealth.

SECT. 2. This act shall take effect upon its passage.

*Approved April 5, 1889.*

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## CHAPTER 288 OF ACTS OF 1889.

### AN ACT IN RELATION TO THE RETURNS OF BIRTHS BY PHYSICIANS AND MIDWIVES.

*Be it enacted, etc., as follows :*

Section seven of chapter thirty-two of the Public Statutes, as amended by chapter one hundred and fifty-eight of the acts of the year eighteen hundred and eighty-three, is hereby further amended by striking out in

the second and third lines of said section the words "except Boston," so as to read as follows:

*Section 7.* Physicians and midwives shall, on or before the fifth day of each month, report to the clerk of each city or town a correct list of all children born therein during the month next preceding, at whose birth they were present, stating the date and place of each birth, the name of the child (if it has any), the sex and color of the child, the name, place of birth, and residence of the parents, and the occupation of the father. The fee of the physician or midwife shall be twenty-five cents for each birth so reported, and shall be paid by the city or town in which the report is made.

*Approved April 26, 1889.*

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## CHAPTER 402 OF ACTS OF 1890.

### AN ACT IN RELATION TO THE RETURN AND RECORD OF DEATHS.

*Be it enacted, etc., as follows:*

SECTION 1. The last clause of section one of chapter thirty-two of the Public Statutes, as amended by section five of chapter two hundred and two of the acts of the year eighteen hundred and eighty-seven, is hereby further amended so that said clause shall read as follows: In the record of deaths, the date of the death, the name of the deceased, the sex, the color, the condition (whether single, widowed or married,) the age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of parents, the disease or cause of death, the place of burial, if the deceased was a married woman her maiden name, and the name of her husband, and the maiden name of the mother of any deceased person, and the date of the record.

SECT. 2. This act shall take effect upon its passage.

*Approved June 11, 1890.*

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## CHAPTER 300 OF ACTS OF 1892.

### AN ACT RELATING TO THE RECORD AND RETURN OF MARRIAGES.

*Be it enacted, etc., as follows:*

Section twenty-four of chapter one hundred and forty-five of the Public Statutes is hereby amended by inserting in the third line of said section, after the word "make," the words: — and keep, — by striking out, in the fifth line, the words "by law," by inserting after the word "recorded," in said fifth line, the words: — by section one of chapter thirty-two of the Public Statutes, — by striking out the word "each," in the sixth line of said section, and inserting in place thereof the word: — the, — by striking out all after the word "month," in said sixth line, to and including the word "solemnized," in the tenth line, and inserting in place thereof the following words:—following each marriage solemnized by him, return each certificate issued under the provisions of sections sixteen and seventeen of this chapter, to the clerk or registrar who issued the same; and if the marriage was solemnized in a city or town other than the place or places in which the parties to the marriage resided,—by striking out, in the eleventh line, the words "of the record of such marriage," and inserting in place thereof the following words:—of the certificate, or of either certificate in case two were issued,—by striking out all after the word "town," in the twelfth line, to and including "places," in the fourteenth line, and inserting in place thereof the following words: — in which the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the place and date of marriage, and shall be attested by the signature



of the person who solemnized the same, with his official station and residence added thereto, — by striking out the word “marriages,” in said fourteenth line, and inserting in place thereof the words:— certificates or copies,— by inserting after the word “registrar,” in the fifteenth line, the words:— receiving the same,— and by inserting after the word “the,” in said fifteenth line, the words:— record and,— so as to read as follows:

*Section 24.* Every justice of the peace, minister and clerk or keeper of the records of a meeting wherein marriages among Friends or Quakers are solemnized shall make and keep a record of each marriage solemnized before him, or in such meeting, and of all facts relating to the marriage which are required to be recorded by section one of chapter thirty-two of the Public Statutes. He shall also, between the first and tenth days of the month following each marriage solemnized by him, return each certificate issued under the provisions of sections sixteen and seventeen of this chapter, to the clerk or registrar who issued the same; and if the marriage was solemnized in a city or town other than the place or places in which the parties to the marriage resided, return a copy of the certificate, or of either certificate in case two were issued, to the clerk or registrar of the city or town in which the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the place and date of marriage, and shall be attested by the signature of the person who solemnized the same, with his official station and residence added thereto. All certificates or copies so returned shall be recorded by the clerk or registrar receiving the same, and every person neglecting to make the record and returns required by this section shall forfeit for each neglect not less than twenty nor more than one hundred dollars.

*Approved May 17, 1892.*

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## CHAPTER 305 OF ACTS OF 1892.

### AN ACT CONCERNING RECORDS OF BIRTHS, DEATHS AND MARRIAGES.

*Be it enacted, etc., as follows:*

SECTION 1. Whenever the records of any city or town do not contain the facts relating to a birth, death or marriage which occurred therein, or whenever such facts are not fully or correctly stated on such records, the clerk or registrar of such city or town may receive a deposition, under oath, containing such facts as are desired for record, and shall then file said deposition and record said facts in a book to be kept for that purpose, stating in addition thereto the name and residence of the deponent and the date of such record. The clerk or registrar shall keep such book separate and apart from the official records of his office, and may certify to the facts contained therein; *provided, however,* that such certificate shall state in addition to all the facts so recorded that the certificate is issued in accordance with the provisions of this act.

SECT. 2. A clerk or registrar shall not alter or amend the record of any former clerk or registrar, nor any record made while he is in office, except to correct a clerical error made by himself or some person under his direction. Whenever it is deemed expedient to make a new copy of any earlier records, each page shall be verified and signed by the clerk or registrar, and such record while preserved in proper custody shall have the same force and effect as the original record.

SECT. 3. Any person who shall make a false return in regard to any birth or death shall be liable to a fine not exceeding fifty dollars.

*Approved May 17, 1892*

CHAPTER 314 OF ACTS OF 1892.

AN ACT CONCERNING THE CITY REGISTRAR OF THE CITY OF BOSTON.

*Be it enacted, etc., as follows:*

SECTION 1. The mayor of the city of Boston shall appoint, subject to confirmation by the board of aldermen of said city, a city registrar, who shall have charge of the registry department of said city and shall have all the powers and perform all the duties appertaining to registrars of cities provided for in section sixteen of chapter thirty-two of the Public Statutes; and said city may from time to time assign to said city registrar any other duties. Chapter two hundred and sixty-six of the acts of the year eighteen hundred and eighty-five and chapter four hundred and eighteen of the acts of the year eighteen hundred and ninety, and all other acts relating to departments of the city of Boston and officers in charge thereof, shall apply to said registry department and to said city registrar.

SECT. 2. The said city registrar shall, from his subordinates, appoint two assistant city registrars, who may, in the absence of the city registrar, perform his duties; and the certificates or attestations of either assistant city registrar shall have the same force and effect as that of the city registrar; said city registrar may pay, out of any funds received by him, the fees due to persons making returns under the requirements of law, and shall on or before the twentieth of each month transmit the accounts and vouchers for all funds so received and fees so paid to the city auditor.

SECT. 3. The duties imposed upon the clerks of cities or towns under sections fourteen and fifteen of chapter thirty-seven of the Public Statutes shall in Boston be performed by the city registrar.

SECT. 4. Said city may from time to time, by ordinance, direct the head of any department, including the city clerk, to place in charge of the city registrar any of the books or papers of such department bearing date prior to the year eighteen hundred and seventy-five, and may in like manner direct their return.

SECT. 5. In the city of Boston the penalties or forfeitures established by section seventeen of chapter thirty-two of the Public Statutes, or by acts supplementary thereto, shall be recovered on complaint, in the same manner as penalties for breaches of the ordinances of said city, and all fines paid on such complaints shall enure to said city for such uses as it may direct.

*Approved May 19, 1892.*

CHAPTER 263 OF ACTS OF 1893.

AN ACT RELATING TO CERTIFICATES AND REGISTRATION OF DEATHS AND TO THE BURIAL AND REMOVAL OF HUMAN BODIES.

*Be it enacted, etc., as follows:*

SECTION 1. Section three of chapter thirty-two of the Public Statutes, as amended by section one of chapter three hundred and six of the acts of the year eighteen hundred and eighty-eight, is hereby amended by inserting after the word "decease," in the seventh line the words: and a physician who has attended at a birth of a child dying immediately thereafter, or at the birth of a stillborn child, shall, when requested, forthwith furnish for registration a certificate stating, to the best of his knowledge and belief, the fact that such a child died after birth or was born dead, — also by inserting after the word "aforesaid," in the eighth line, the words: or makes a false statement therein, — so as to read as follows: *Section 3.* A physician who has attended a person during his last illness shall, when requested forthwith, furnish



for registration, a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died, the duration of his last sickness, and the date of his decease; and a physician who has attended at a birth of a child dying immediately thereafter, or at the birth of a stillborn child, shall, when requested, forthwith furnish for registration a certificate stating, to the best of his knowledge and belief, the fact that such a child died after birth or was born dead. If a physician neglects or refuses to make a certificate as aforesaid, or makes a false statement therein, he shall be punished by a fine not exceeding fifty dollars.

SECT. 2. Section five of chapter thirty-two of the Public Statutes, as amended by section two of chapter three hundred and six of the acts of the year eighteen hundred and eighty-eight, is hereby amended by striking out in the second and third lines thereof, the words "the body of a deceased person," and inserting in place thereof the words: a human body,—so as to read as follows: *Section 5.* No undertaker, sexton, or other person shall bury in a city or town or remove therefrom a human body until he has received a permit so to do from the board of health or its duly appointed agent, or, if there is no board of health in such city or town, from the city or town clerk. No such permit shall be issued until there has been delivered to such board, or agent or clerk, as the case may be, a satisfactory written statement containing the facts required by this chapter to be returned and recorded, together with the certificate of the attending physician, if any, as required by section three of this chapter, or in lieu thereof a certificate as hereinafter provided. If there is no attending physician, or if the certificate of the attending physician cannot be obtained, for good and sufficient reasons, early enough for the purpose, the chairman of the board of health or any physician employed by a city or town for the purpose shall, upon request of said board, agent, or clerk, make such certificate as is required of the attending physician; and in case of death by violence the medical examiner shall, if requested, make the same. When such satisfactory statement and certificate are delivered to the board of health or to its agent, the board or agent shall forthwith countersign and transmit the same to the clerk or registrar for registration. The person to whom the permit is so given shall thereafter furnish for registration any other information as to the deceased or to the manner and cause of the death, as the clerk or registrar may require. Any person violating any of the provisions of this section shall be punished by a fine not exceeding fifty dollars.

SECT. 3. This act shall take effect upon its passage.

*Approved April 26, 1893.*

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## CHAPTER 461 OF ACTS OF 1893.

### AN ACT RELATIVE TO SOLEMNIZING MARRIAGES.

*Be it enacted, etc., as follows:*

SECTION 1. Any rabbi of the Israelitish faith may solemnize a marriage under the same rules, restrictions, obligations and penalties as are imposed by law upon ministers of the gospel in this Commonwealth. Such rabbi must be one duly licensed to act by a congregation of said faith established in this Commonwealth.

SECT. 2. The provisions of section twenty-seven of chapter one hundred and forty-five of the Public Statutes shall apply to such a marriage.

SECT. 3. This act shall take effect upon its passage.

*Approved June 9, 1893.*

CHAPTER 206 OF ACTS OF 1894.

AN ACT RELATING TO RETURNS OF BIRTHS, MARRIAGES, AND DEATHS.

*Be it enacted, etc., as follows :*

Section ten of chapter thirty-two of the Public Statutes is hereby amended by inserting in the first line after the word "town" the words "except Boston," and by adding at the end of said section the words, "the city registrar of Boston shall transmit the copies of his record on or before the first day of May annually," so as to read as follows :

"Section 10. The clerk of each city and town, except Boston, shall annually, on or before the first day of March, transmit to the secretary of the Commonwealth certified copies of the records of the births, marriages, and deaths which have occurred therein during the year ending on the last day of the preceding December. The city registrar of Boston shall transmit the copies of his records on or before the first day of May annually."

*Approved April 5, 1894.*

CHAPTER 401 OF ACTS OF 1894.

AN ACT CONCERNING THE MARRIAGE OF MINORS.

*Be it enacted, etc., as follows :*

SECTION 1. No town or city clerk or registrar shall receive a notice of the intention of marriage of any male under the age of eighteen years, nor of any female under the age of sixteen years, except as hereinafter provided.

SECT. 2. The judge of probate in any county, after due hearing, may make an order allowing the marriage of a minor under the age specified in the preceding section: *provided*, that said minor resides in a city or town within the county wherein said judge holds court; and *provided, also*, that the father of such minor, or in case of his death the mother, has consented to such order, and that in case neither parent is alive and resident in this Commonwealth a legal guardian has been appointed, whose consent has been given to such order. On the receipt of a certified copy of such order by the clerk or registrar of the town or city where such minor resides, he shall receive the notice required by law and issue a certificate as in other cases.

SECT. 3. This act shall take effect upon its passage.

*Approved May 18, 1894.*

CHAPTER 402 OF ACTS OF 1894.

AN ACT RELATIVE TO RECORDS OF BIRTHS, DEATHS, AND MARRIAGES.

*Be it enacted, etc., as follows :*

SECTION 1. Section two of chapter three hundred and five of the acts of the year eighteen hundred and ninety-two is hereby amended by striking out all of said section to and including the word "direction," in the fifth line, so as to read as follows :

"Section 2. Whenever it is deemed expedient to make a new copy of any earlier records, each page shall be verified and signed by the clerk or registrar, and such record while preserved in proper custody shall have the same force and effect as the original record."



SECT. 2. No town or city clerk or registrar shall alter or add to any record of a birth, death, or marriage already entered in any book or formal list in his charge, except upon such evidence as was required by law for the original entry, or upon a certified copy of the record of any other city or town, or of the record made at the time by any person since deceased, who was required by law to furnish the evidence of birth, death, or marriage, and such correction shall be at his discretion. In no case shall the first entry be erased, but all corrections shall be added.

SECT. 3. This act shall take effect upon its passage.

*Approved May 18, 1894.*

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## CHAPTER 409 OF ACTS OF 1894.

### AN ACT RELATIVE TO MARRIAGES AND THE ISSUING OF CERTIFICATES THEREFOR.

*Be it enacted, etc., as follows:*

SECTION 1. City clerks and registrars may require notices of intention of marriage to be given to them in writing, on blanks to be furnished by them, by one of the parties to such intended marriage, or by his or her parent or legal guardian, and may require the party giving such notice to make oath before them to the truth of all the statements therein whereof he or she could have knowledge. No fee shall be charged for administering such oath.

SECT. 2. Any city clerk or registrar may refuse to issue a certificate to any parties, in case he has reasonable grounds to believe that any of the statements contained in the notice of intention of marriage are incorrect; but he may, in his discretion, accept depositions under oath, made before him, and such depositions shall be taken and deemed to be sufficient proof of the facts therein stated to authorize the issuing of a certificate. A city clerk or registrar may dispense with the statement of any of the facts required by law to be given in notices of intention of marriage, whenever such facts do not relate to or affect the identity or age of the parties, if he is satisfied that the same cannot be obtained with reasonable effort.

SECT. 3. No city clerk or registrar shall be required to receive notices of intention of marriage at any place except his office, nor shall he be required to receive such notices on the Lord's day or public holidays.

SECT. 4. Whenever, in the marriage of a minor, it is necessary to give notice in two towns or cities, the town or city clerk or registrar who first takes the consent of the parent or guardian shall take it in duplicate, retaining one copy and delivering the other duly attested by him to the party obtaining the certificate, to be given to the clerk or registrar issuing the second certificate; and no fee shall be charged for such consent or copy.

SECT. 5. Any clergyman or rabbi duly authorized to solemnize a marriage in this Commonwealth may perform the ceremony anywhere within the same.

SECT. 6. No person shall give the notice of intention of marriage required by law without the consent of both the parties to such intended marriage, and any person giving such notice without such consent shall be liable in an action of tort to the person whose name was so used without such consent for all damages thereby sustained by such person.

SECT. 7. The superior court, upon petition of either of the parties alleged to intend marriage in a notice of intention of marriage, given

without the consent of both parties therein alleged to intend marriage, and not followed by a marriage between said parties, may, upon such notice as said court may order and after a hearing upon such petition, adjudge that such notice of intention of marriage be cancelled and expunged from the records of the city or town in which the same was recorded.

SECT. 8. Whoever violates any of the provisions of this act shall, upon conviction thereof within one year after such violation, be punished by a fine not exceeding five hundred dollars or by imprisonment in jail or in the house of correction for not more than one year, or both.

*Approved May 19, 1894.*

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## CHAPTER 427 OF THE ACTS OF 1895.

AN ACT RELATIVE TO MARRIAGE AND THE LEGITIMACY OF CHILDREN.

*Be it enacted, etc., as follows:*

Where a marriage contract has been entered into with due legal ceremony and the parties thereafter live together as husband and wife; and where at the time of such marriage ceremony a former husband or wife of one of the parties was living, and the former marriage with such person was still in force; and where such subsequent marriage contract was entered into by at least one of the parties in good faith, in the full belief that the former husband or wife was dead, or that such former marriage had been annulled by divorce; or without knowledge on the part of one of them of such former marriage; and where the impediment to such subsequent marriage existing by reason of the former marriage is removed by the death of the other party to the former marriage, or by a proper decree of divorce, and the parties to such subsequent marriage then continue living together as husband and wife in good faith, on the part of at least one of them, they shall be taken and deemed to have been legally married from and after the removal of such impediment, and the issue of such subsequent marriage shall be deemed to be the legitimate issue of both parents.

*Approved May 29, 1895.*

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## CHAPTER 499 OF THE ACTS OF 1896.

AN ACT RELATIVE TO MARRIAGE AND THE LEGITIMACY OF CHILDREN.

*Be it enacted, etc., as follows:*

The provisions of chapter four hundred and twenty-seven of the acts of the year eighteen hundred and ninety-five shall apply to cases in which the impediment to marriage therein referred to was removed prior to the date when said act took effect, as well as to cases in which such impediment was removed subsequent to such date: *provided*, that no marriage otherwise valid shall hereby be rendered invalid.

*Approved June 5, 1896.*



## CHAPTER 306 OF THE ACTS OF 1896.

## AN ACT RELATIVE TO MARRIAGES.

*Be it enacted, etc., as follows :*

SECTION 1. Any person duly authorized to solemnize marriages in this Commonwealth who shall join in marriage persons who have not complied with the statutes in regard to procuring certificates of notice of intention of marriage shall be punished by a fine not exceeding five hundred dollars.

SECT. 2. Whoever, not being duly authorized by the statutes of this Commonwealth, undertakes to join persons in marriage in this Commonwealth shall be punished by a fine not exceeding five hundred dollars or by imprisonment in jail or in the house of correction not exceeding one year, or by both such fine and imprisonment.

SECT. 3. Sections twenty-five and twenty-six of chapter one hundred and forty-five of the Public Statutes are hereby repealed.

SECT. 4. No person shall solemnize a marriage in this Commonwealth unless he is able to read and write the English language, and no rabbi of the Israelitish faith shall solemnize marriage until he has filed with the clerk or registrar of the town or city where he resides a certificate of the establishment of the synagogue of which he is rabbi, and of the date of his appointment thereto, and of the term of his engagement.

*Approved April 22, 1896.*

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## CHAPTER 424 OF ACTS OF 1897.

## AN ACT RELATIVE TO MARRIAGE.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

SECTION 1. No alteration or erasure shall be made by any person on a certificate of intention of marriage issued by any town clerk, city clerk or registrar, until after the same shall have been returned to the possession of such clerk or registrar, and then only in such form and to such extent as said clerk or registrar may prescribe. Any such certificate may be recorded after correction in accordance herewith. Any person making an illegal alteration or erasure shall be liable to a fine not exceeding one hundred dollars.

SECT. 2. Whenever any certificate of marriage is returned to any town clerk, city clerk or registrar, and has been found to have been incorrectly filled out by the person solemnizing a marriage under the same, such clerk or registrar shall proceed to have the same corrected, and to enforce the penalties, if any, provided by law in relation thereto. All such imperfect certificates shall be recorded and indexed by such clerk or registrar.

SECT. 3. A town by vote and a city by ordinance may authorize its clerk or registrar to pay on demand, in his office, the sum of twenty-five cents to any person legally solemnizing a marriage in this Commonwealth, after the receipt by such clerk or registrar of the certificate in legal form of the solemnization of such marriage. Towns and cities in which the clerks or registrars thereof are authorized to make such payment shall annually appropriate the money necessary therefor, and such clerks or registrars shall file quarterly with the treasurers or other proper financial officers of said towns and cities proper vouchers for all payments made by them under the provisions of this section.

SECT. 4. If either of the parties to an intended marriage has been legally adopted, such party shall, on the notice of intention of such marriage, give the names of his or her parents by such adoption; but the

names of the natural parents of such party may also be added. Whenever the consent of a parent of a minor is required by law as a preliminary to marriage the consent of a parent by adoption of such minor, if any, shall be sufficient. In case the natural parents of a minor have been divorced and the consent of one of such parents is required by law, preliminary to the marriage of such minor, the consent of the parent having the custody of such minor shall be sufficient.

SECT. 5. The words "official station," as used of a person solemnizing a marriage, in chapter three hundred of the acts of the year eighteen hundred and ninety-two, shall be taken and deemed to mean the office by virtue of which said person solemnizes such a marriage; and to describe such office in returns of marriages the words "justice of the peace," "minister of the gospel," "clergyman," "priest," or "rabbi," only shall be used. [*Approved May 22, 1897.*]

## CHAPTER 439 OF ACTS OF 1897.

### AN ACT RELATIVE TO PUBLIC RECORDS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. The words "public records," when used in this or any other act shall, unless manifestly inconsistent with the context, be construed to mean any written or printed book or paper, or any map or plan of the Commonwealth or of any county, city or town, in or on which any record or entry has been or is to be made in pursuance of any requirement of law, or any written or printed book or paper, or any map or plan which any officer or employee of the Commonwealth or of any county, city or town is required by law to receive, or in pursuance of any such requirement has received for filing, and any book, paper, record or copy mentioned in either of the five following sections. Every such record of the Commonwealth or of a county, city or town, other than maps or plans, consisting of a book, or sheets to be made into a book, in or on which entries are from time to time made or to be made, shall be of paper made of linen rags and new cotton clippings, well sized with animal sizing, and well finished, preference being given to paper of American manufacture marked in water line with the name of the manufacturer. The word "record," in this act without any word of explanation or limitation shall be construed to mean any written or printed book or paper, or any map or plan.

SECT. 2. Every public board and every head consisting of more than one person, in charge of a department or office of the Commonwealth or of a county, city or town, shall designate some person as secretary, who shall enter in books all votes, orders and proceedings of such board, department or office, and shall have the custody of such books; and every such board or head shall designate some employee or employees to have the custody of the other public records pertaining to the work of such board, department or office.

SECT. 3. Every public board, and every head consisting of one person, in charge of a department or office of the Commonwealth or of a county, city or town, having in such department or office any public records, shall have the custody of such records. Every city or town clerk shall have the custody of all records of town proprietaries, and of proprietors of plantations or townships or common lands when the towns, townships or common lands to which such records relate, or the larger part thereof, are within the limits of the city or town of which he is the clerk, and when the proprietors have ceased to be a body politic; also of all records of any church or religious society in such city or town that has ceased to have a legal existence. The secretary of the Commonwealth, clerk of the county commissioners, and city or town clerk, shall respectively have the custody of all other public records of the Commonwealth or of the county, city or town of which he is clerk, when no other disposition of such records is made by law or ordinance.



SECT. 4. Every original paper belonging to the files of the Commonwealth or of any county, city or town, bearing a date earlier than the year eighteen hundred; every book of registry or other book used for recording, belonging to the Commonwealth or to any county, city or town; every deed to the Commonwealth or to any county, city or town; and every report of an agent, officer or committee of the Commonwealth or of any county, city or town, relating to bridges, highways, streets, townways, sewers, or other state, county or municipal interests or matters, not required by law to be entered in a book and not so entered, shall be safely kept, and every other paper belonging to the files of the Commonwealth or of any county, city or town, shall be safely kept for seven years after the latest entry originally made therein or thereon unless required by law to be destroyed at some other time, and no such paper of any county, city or town shall be destroyed unless such destruction is approved by the commissioner of public records.

SECT. 5. Every board of county commissioners, city government, and board of selectmen, may have made for their county, city or town, copies of the records, within or without the Commonwealth, of counties, cities or towns, or town proprietaries, or proprietors of plantations or townships or common lands, relating to lands, easements and rights of way situated in their county, city or town, and copies of the records of births, marriages, deaths and baptisms kept by a church or parish within their city or town.

SECT. 6. Every person having the custody of any public records of a county, city or town, consisting of written or printed books shall, at the expense of the county, city or town, have all such books properly and substantially bound, and shall have any such book left incomplete made up and completed from the files and usual memoranda, so far as it can be done, and shall have any such books becoming worn, mutilated or illegible, seasonably renovated, repaired or rebound, and fair and legible copies thereof seasonably made, and may cause any such books to be placed in the custody of the commissioner of public records, who shall have the work done at the expense of the county, city or town, in a proper and substantial manner.

SECT. 7. Every person having the custody of any public records shall on request for any public record in his custody, furnish the same for inspection and examination under his direction, supervision and care, or under the direction, supervision and care of some person designated by him, and shall on request for a copy of any public record in his custody, and the payment of a reasonable fee, furnish such copy: *provided, however,* that the inspection and furnishing of copies of the public records of a city or town shall be subject to the reasonable ordinances of the city or by-laws of the town.

SECT. 8. Every person having the custody of any public records who under the provisions of any section of this act, shall cause to be made up as aforesaid any public record consisting of a book left incomplete, or shall cause to be made or compared a copy of any public record, shall attest the same and make oath, in the case of such book that it is made up from the usual files and memoranda, and, in the case of such copy that it is a correct copy of the original. Every copy so attested and sworn to shall be admitted in evidence in the same manner and with the same effect as the original.

SECT. 9. Every person who is given by law the custody of any public records shall have power to demand, and shall demand, any such record from the person having the same in his possession, and such person shall forthwith deliver such record to such custodian, and every person having the custody of any public records shall safely keep the same in the rooms in which they are usually used, so arranged that they can be conveniently examined and referred to, and shall keep all such records, when not in use, in the fireproof rooms, vaults or safes provided therefor, except the records in the custody of the teachers of the public schools.

SECT. 10. Every officer or board in charge of a state department, board of county commissioners, city government, and board of selectmen shall, at the expense of the Commonwealth, county, city or town, provide and maintain fireproof rooms, safes or vaults for the keeping as aforesaid

of the public records of their department, county, city or town, other than the records in the custody of teachers of the public schools, and shall hereafter furnish for such rooms only fittings of non-combustible materials.

SECT. 11. Every person having the custody of any public records shall, when succeeded in such custody by another person, forthwith deliver to the successor all public records in his custody which he is not authorized by law to retain, and shall make oath that he has so delivered such records, before, and to be recorded by, the secretary of the Commonwealth, or the clerk of the county commissioners, or the city or town clerk, according as the records so delivered are the records of the Commonwealth, county, city or town.

SECT. 12. Every person who unlawfully keeps in his possession any public record, or removes any public record from the room in which it is usually kept, or violates any of the provisions of this act, or alters, defaces, mutilates or destroys any public record, shall, for each offence, be punished by a fine of not less than ten dollars nor more than five hundred dollars; and every public officer who neglects or refuses to perform any duty required of him by this act shall, for each month of such neglect or refusal, be punished by a fine of not more than twenty dollars.

SECT. 13. The provisions of this act shall not be construed as applying to the records of the general court.

SECT. 14. Chapter thirty-seven of the Public Statutes, section one of chapter two hundred and two of the acts of the year eighteen hundred and eighty-seven, chapter three hundred and seven of the acts of the year eighteen hundred and eighty-eight, chapters two hundred and twenty-seven and three hundred and ninety-two of the acts of the year eighteen hundred and ninety, chapters two hundred and eighty-one and three hundred and forty of the acts of the year eighteen hundred and ninety-one, chapter three hundred and fifty-six and section one of chapter four hundred and two of the acts of the year eighteen hundred and ninety-four, and all acts and parts of acts inconsistent herewith, are hereby repealed. [*Approved May 28, 1897.*]

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#### CHAPTER 444 OF ACTS OF 1897.

##### AN ACT RELATIVE TO THE REGISTRY AND RETURN OF BIRTHS, MARRIAGES AND DEATHS.

*Be it enacted, etc., as follows:*

SECTION 1. The clerk of each city and town shall receive or obtain and record the following facts concerning the births, marriages and deaths therein, separately numbering and recording the same, designating the facts hereinafter specified in separate columns as follows:—In the record of births, the date of the record, the date of birth, the place of birth, the name of the child, the sex and color of the child, the names and places of birth of the parents, including the maiden name of the mother, the occupation of the father, and the residence of the parents. In the record of the birth of an illegitimate child the name and other facts relating to the father shall not be recorded unless at the joint request in writing of both father and mother. The term “illegitimate,” shall not be used in the record of a birth unless the fact has been legally determined or upon the sworn statement of both the father and mother. In the record of marriages, the date of the record, the date of the marriage, the place of marriage, the name, residence, and official station of the person by whom the marriage is solemnized, the names and places of birth of the parties married, the residence of each, the age and color of each, the number of the marriage (for example, the first or second marriage), and if previously married whether widowed or divorced, the occupation of each and the names of their parents, with the maiden name of the mother. If the bride is a widow or divorced her maiden name shall also be given. In the record of deaths, the date of the record, the date of the death, the name of the deceased, the sex, the color, the condition (whether single, widowed,



married or divorced), the supposed age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of the parents, the disease or cause of death, the place of burial, with the name of the cemetery if it has any, the maiden name of the mother, and if the deceased was a married or divorced woman or a widow, her maiden name and the name of her husband. In cities the word "residence," as used in this section, shall be held to include the name of the street and the number of the house, if any.

SECT. 2. The clerk of each city and town shall index in separate indexes of births, marriages and deaths the names of all persons recorded as born, married or dead.

SECT. 3. Physicians and midwives shall on or before the fifth day of each month report to the clerk of each city or town a correct list of all children born therein during the month next preceding, at whose birth they were present, stating the date and place of each birth, the name of the child if it has any, the sex and color of the child, the name, place of birth and residence of the parents, the maiden name of the mother, and the occupation of the father. If the child is illegitimate the name of the father shall not be stated, unless at the joint request in writing of both father and mother, which request shall be filed with the returns of births. The fee of the physician or midwife shall be twenty-five cents for each birth so reported, and shall be paid by the city or town in which the report is made, upon presentation of a certificate from the city or town clerk, stating that said births have been reported in conformity with the requirements of this section. Any physician or midwife neglecting to report such list for ten days after it is due shall for each offence forfeit a sum not exceeding twenty-five dollars.

SECT. 4. Any member or servant of a family in which a child is born, having knowledge of the facts required for record concerning the birth of such child, shall furnish the same upon request of the clerk of the city or town wherein such child was born or its parents reside, or of any person authorized by him to obtain such facts. Any such member or servant of a family who refuses to furnish such facts shall for each offence forfeit not exceeding ten dollars.

SECT. 5. The clerk of every city and town shall annually in the month of January ascertain or cause to be ascertained the facts required for record by section one of this act relating to the birth of all children born therein within the year preceding the first day of said January.

SECT. 6. Parents shall, within forty days after the birth of a child, give notice thereof or cause such notice to be given, to the clerk of the city or town in which such child is born. Every householder shall, within forty days after the date of a birth occurring in his house, give notice thereof, or cause such notice to be given to the clerk of the city or town in which he resides; and he shall also, within five days after the date of a death occurring in his house, give notice thereof or cause such notice to be given, to the board of health, other than the selectmen, or if there is no such board, to the clerk of such city or town. The oldest person next of kin present at the time of the death of any of his kindred in the city or town in which such death occurs shall, within five days thereafter, give notice thereof or cause such notice to be given, to such board of health, or if there is no such board, to the clerk of such city or town. The keeper, superintendent or person in charge of a workhouse, house of correction, prison, reformatory, reform school, hospital, almshouse or other institution, public or private, receiving inmates from within or without the limits of the city or town in which it is located shall, when a person is received into the institution of which he is the keeper, superintendent or person in charge, obtain a record of all the facts which would be required for record in the event of the death of such person so received, and shall, on or before the fifth day of each month, give notice to the clerk of said city or town of every birth and death happening among the persons under his charge during the month next preceding. The facts required for record by section one of this act shall, so far as known or obtainable, be included in every notice given under this section.

SECT. 7. The master or other commanding officer of a vessel shall give notice, with the facts required for record, of every birth or death happening among the persons under his charge. In case of a birth the notice shall be given to the clerk, and in case of a death to the board of health, other than the selectmen, or if there is no such board, to the clerk of the city or town within the Commonwealth at which his vessel first arrives after said birth or death.

SECT. 8. Any parent, keeper, superintendent or other person required by section six of this act to give, or cause to be given, notice of a birth or death, who neglects to give the required notice or cause the same to be given, for ten days after it is due, shall for each offence forfeit not exceeding five dollars, and the master or commanding officer of a vessel who neglects to give such notice for ten days after the arrival of his vessel at the port where notice is to be given shall forfeit not exceeding five dollars.

SECT. 9. The clerk of any city or town may enter upon the record already made by him concerning a person born in such city or town any information obtained in writing by the canvass mentioned in section five, or by his own efforts, which is needed to supply deficiencies in said records, but shall make no changes in facts already recorded, except as provided in section fourteen of this act or to correct errors in copying from certificates or returns on file in his office. When an error in copying is corrected a statement of the fact that the correction is made to correct an error in copying shall be entered upon the record over the signature of the clerk.

SECT. 10. A physician who has attended a person during his last illness shall forthwith, after the death of said person, furnished for registration at the request of a duly licensed undertaker or other authorized person, or any member of the family of such deceased person, a certificate, stating to the best of his knowledge and belief the name of the deceased, his supposed age, the disease of which he died, the duration of his last sickness, and the date of his decease; and a physician who has attended at the birth of a child dying immediately thereafter, or a physician or midwife who has attended at the birth of a child born dead, shall forthwith furnish for registration a certificate stating that to the best of his or her knowledge and belief such child either died immediately after birth or was born dead. Both the birth and death of such child shall be recorded, and if the child was born dead the word "stillborn," shall be entered in both the record of birth and death. A physician or midwife who neglects or refuses to make the certificate required by this section or who makes a false statement therein shall forfeit not exceeding fifty dollars.

SECT. 11. A physician who has attended a person in his last illness, in furnishing a certificate for the purpose of registration as required by section ten shall, in case the deceased was a soldier or a sailor who served in the war of the rebellion, give both the primary and the secondary or immediate cause of death as nearly as he can state the same. A physician who refuses or neglects to make such certificate shall forfeit ten dollars.

SECT. 12. Every undertaker or other person having charge of the funeral rites preliminary to the interment of a human body shall forthwith obtain the physician's certificate made in accordance with section ten of this act, and shall enter thereon the facts required by section one of this act to be recorded concerning the deceased, and shall return the same to the board of health, other than the selectmen, or its duly appointed agent; or if there is no such board, to the clerk of the city or town in which the death occurred. The person making such return shall receive from the city or town a fee of twenty-five cents therefor.

SECT. 13. The clerk of each city and town shall forthwith make certified copies of the records of all births and deaths recorded in the books of said city or town during the previous month, whenever the deceased person or the parents of the child born were resident in any other city or town in this Commonwealth or any other state at the time of said birth or death; and shall transmit said certified copies to the clerk of the city or town in which such deceased person or parents were resident at the time of said birth or death, stating in addition the name of the street and number of the house, if any, where such deceased person or parents so resided,



whenever the same can be ascertained; and the clerk of every city or town in this Commonwealth so receiving such certified copies, or certified copies of births, deaths or marriages, from the clerk of a city or town without the Commonwealth, shall record the same in the books kept for recording births, deaths or marriages.

SECT. 14. Whenever the record relating to a birth, marriage or death in the records of any city or town does not contain all the facts required for record, or when it is alleged that the facts are not correctly stated in such record, the clerk of such city or town shall receive a deposition under oath, made by one who was required by law to furnish the information for the original record, or, at his discretion, by three or more credible persons having knowledge of the case, containing such facts as are desired for record. Having received such deposition he shall then file the same, and record said facts in a separate book to be kept for recording such depositions, adding thereto the name and residence of the deponent and the date of such record, and shall thereupon draw a line through the incorrect statements without erasing them, and enter upon the original record the facts needed to amend the record, and forthwith, if a copy of the record has been sent to the secretary of the Commonwealth, forward a certified copy of the corrected record to the secretary upon blanks provided by him for the purpose, who shall thereupon amend the record in his office, and state in the margin thereof his authority for so doing. Reference to the record of the deposition recorded shall be made by the clerk against the original record. The clerk when furnishing a copy of such record shall certify to the facts contained in the record as amended, and shall state in addition that the certificate is issued in accordance with the provisions of this act, and a copy of this section shall be printed on every such certificate. Such deposition, or a certified copy of the record of any other city or town, or of the record made at the time by any person since deceased who was required by law to furnish the evidence of a birth, marriage or death may, at the discretion of the clerk, be made the basis for the record of a birth, marriage or death not previously recorded, and such copy of record may also be made the basis for completing the record of a birth, marriage or death which does not contain all the required facts.

SECT. 15. Any person who wilfully makes a false return in regard to any birth or death shall forfeit not exceeding fifty dollars.

SECT. 16. All the returns of births, marriages and deaths made as provided by law shall be preserved by the city or town clerk and filed and arranged conveniently for examination and reference.

SECT. 17. The clerk of each city and town shall annually give public notice that he is prepared to furnish to parents, householders, physicians and midwives applying therefor, blanks for returns of births as required by law.

SECT. 18. The secretary of the Commonwealth shall, at the expense of the Commonwealth, prepare and furnish to the clerks and boards of health of the several cities and towns, and to the superintendent of the state almshouse, blank books of suitable quality and size, to be used as books of record under this act, blank books for indexes thereto, and blank forms for returns on paper of uniform size: *provided, however*, that any city or town may provide books and forms which shall conform to those prepared by the secretary of the Commonwealth. He shall accompany the same with such instructions and explanations as may be necessary and useful. City and town clerks shall make such distribution of blank forms of returns furnished by the secretary as he shall direct.

SECT. 19. The clerk of each city and town shall annually, on or before the first day of March, transmit to the secretary of the Commonwealth fair and legible certified copies of the records of births, marriages and deaths which have been recorded therein during the year ending on the last day of the preceding December, together with certified copies, upon blanks provided by the secretary, of all such records and corrections in records of births, marriages and deaths, as may not have been previously returned: *provided*, that in cities, except Boston, containing over thirty thousand inhabitants, said copies shall be transmitted on or before the first day of April.

The copies from the city of Boston shall be transmitted on or before the first day of May.

SECT. 20. It shall be the duty of the secretary of the Commonwealth to see that all copies sent to his office under the provisions of section nineteen of this act are written in a fair and legible hand, and any city or town clerk who neglects or refuses to make or cause to be made fair and legible copies as required shall forfeit not less than twenty dollars nor more than one hundred dollars, to be recovered in an action in the name of the secretary of the Commonwealth.

SECT. 21. The record of the city or town clerk relative to a birth, marriage or death shall be *prima facie* evidence in legal proceedings of the facts recorded. A certificate signed by the city or town clerk or assistant clerk for the time being shall be admissible as evidence of such record.

SECT. 22. The superintendent of the state almshouse shall obtain, record and make return of the facts in relation to the births and deaths which occur in his institution, in like manner as is required by town clerks. The clerk of a town in which such almshouse is located shall, in relation to the births and deaths of persons in said almshouse, be exempt from the duties otherwise required of him by this act.

SECT. 23. The secretary shall cause the copies received by him for each year to be bound together in one or more volumes, with indexes thereto. He shall prepare from the copies such tabular results as will render them of practical utility, make report thereof annually to the general court, and do all other acts necessary to carry into effect the provisions of this act.

SECT. 24. Any city or town containing more than ten thousand inhabitants, except the city of Boston, may choose or provide for the appointment of a person other than the clerk to be registrar, who shall be sworn, and to whom all the provisions of this act concerning clerks shall apply. The returns and notices required to be made and given to clerks shall be made and given to such registrar and to the city registrar of the city of Boston under like penalties; and all the provisions of this act concerning clerks shall apply to said last named registrar.

SECT. 25. Whenever any physician, midwife, parent, householder, keeper, superintendent or person in charge of any institution mentioned in section six of this act, or master or other commanding officer of a vessel, neglects to make any of the reports required by the provisions of this act to the clerk or board of health of any city or town, or whenever any person refuses to furnish the facts as required by section four of this act, said clerk shall notify such person of the requirement, and if such person neglects for the period of one month to make said report said clerk shall notify the agent or attorney duly appointed by the city or town to sue in its corporate capacity, or if there is no such agent or attorney the district attorney of his district, of such neglect, who shall thereupon institute proceedings against such person for the recovery of the penalty or forfeiture imposed by this act.

SECT. 26. The city or town clerk shall notify the person authorized to institute proceedings under the preceding section of the violation of any of the provisions of this act within his city or town which comes to his notice, except violations for which he might be liable, and the person so notified shall thereupon institute a prosecution against the person guilty of such violation.

SECT. 27. In any statement of births and deaths printed by authority of a city or town no name of an illegitimate child or its parents or of the parents of a stillborn child shall be printed, but the word "illegitimate" or "stillborn," as the fact may be, shall be used in place thereof. Any city or town which prints the name of a child or either of its parents in violation of this section shall forfeit to the mother of such child not exceeding one hundred dollars.

SECT. 28. All forfeitures recovered under this act shall accrue to the benefit of the city or town in which the return required should have been made, except as provided in sections twenty and twenty-seven.

SECT. 29. The clerk of each city or town, for receiving or obtaining, recording and returning the facts relating to marriages, births and deaths



occurring therein, and for indexing the names, shall be entitled to receive from the city or town, upon presenting a certificate of the receipt of said copy by the secretary of the Commonwealth, for each marriage, twenty cents; for each birth, fifty cents; for each death returned to him by an undertaker or the board of health, twenty cents; for each death not so returned but by him obtained and recorded, fifty cents. He shall also receive from the city or town the following fees:—For each certificate transmitted under the provisions of section thirteen of this act, twenty-five cents; for receiving and recording a deposition and forwarding a copy thereof under the provisions of section fourteen of this act, fifty cents; for sending the notification required by section twenty-five of this act, twenty-five cents; for each oath administered in his capacity as clerk, twenty-five cents. But a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to its clerk. A city or town clerk shall forfeit not less than twenty dollars nor more than one hundred dollars for each refusal or neglect to perform any duty required of him by this act.

SECT. 30. Any of the oaths required by any of the provisions of this act may be administered by the clerk or assistant clerk of any city or town in his official capacity.

SECT. 31. Sections one to four, both inclusive, and sections seven to eighteen, both inclusive, of chapter thirty-two of the Public Statutes; chapter one hundred and fifty-eight of the acts of the year eighteen hundred and eighty-three; sections two, three, four and five of chapter two hundred and two of the acts of the year eighteen hundred and eighty-seven; chapter sixty-three and section one of chapter three hundred and six of the acts of the year eighteen hundred and eighty-eight; chapters two hundred and eight, two hundred and twenty-four and two hundred and eighty-eight of the acts of the year eighteen hundred and eighty-nine; chapter four hundred and two of the acts of the year eighteen hundred and ninety; chapter three hundred and five of the acts of the year eighteen hundred and ninety-two; section one of chapter two hundred and sixty-three of the acts of the year eighteen hundred and ninety-three; chapter two hundred and six and section two of chapter four hundred and two of the acts of the year eighteen hundred and ninety-four, and all acts and parts of acts inconsistent herewith, are hereby repealed.

SECT. 32. This act shall take effect on the first day of January in the year eighteen hundred and ninety-eight. [*Approved June 2, 1897.*]

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## CHAPTER 84 OF ACTS OF 1857.

### AN ACT AUTHORIZING TRANSCRIPTS OF TOWN OR CITY RECORDS.

*Be it enacted, etc.*

SECTION 1. Any town or city in this Commonwealth may cause to be carefully transcribed such of its records as relate to grants of lands, or the grants or divisions and allotments of lands made by the original proprietors of such township, or to any easements or private rights, or its records relating to ways, or any records of births and marriages, kept by such town or city, or by any parish within the same; and such transcripts, having been first compared and certified, under oath, by the clerk of such town or city for the time being, and deposited in the office of said clerk, shall have the force, effect, and credit of original records.

SECT. 2. Any town or city, whose territory, in whole or in part, has been, or may hereafter be, set off from any other town or city, may cause to be carefully transcribed such of the records, named in the first section of this act, as relate to lands, easements, rights or ways situated in the territory so set off; and such transcripts, being compared and certified, under oath, by the clerk of the town or city where

such records are kept, and deposited in the clerk's office of the town or city in which the land is situated to which they relate, shall have the force, effect, and credit of original records of such last named town or city.

SECT. 3. The records of any town or city shall be open to the free access and examination of any suitable person appointed to transcribe therefrom, in accordance with section second of this act; and the clerk of such town or city, shall, for a reasonable fee to be paid therefor, compare and certify such transcripts, when properly and correctly made.

SECT. 4. The clerk of every city and town in this Commonwealth shall make a certified copy of the record of all marriages, recorded in the books of said city or town, where either or both of the parties married, were resident in any other town in the Commonwealth at the time of said marriage; and he shall also, as far as the same is practicable, make a like copy of all such marriages recorded in any parish records, or in any records kept by any clergyman or magistrate within said town; and the said clerk shall transmit said certified copies to the clerk of the city or town in which such party or parties were resident at the time of said marriage, and the clerk so receiving such certified copies shall record the same in a book to be kept for that purpose. And the clerks of the several cities and towns shall receive a reasonable compensation for the services so rendered, to be paid by their respective cities or towns: *provided, however*, that the provisions of this section shall apply only to marriages solemnized prior to the year eighteen hundred. [*Approved April 24, 1857.*]

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## CHAPTER 15, OF THE PUBLIC STATUTES.

### OF THE EXECUTIVE DEPARTMENT AND THE SECRETARY OF THE COMMONWEALTH.

SECT. 12. The secretary shall have the custody of the state seal; and copies of records and papers in his office, certified by him and authenticated by the state seal, shall be evidence in like manner as the originals.

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## CHAPTER 389 OF ACTS OF 1898.

### AN ACT RELATIVE TO OFFICIAL SEALS AND CERTIFICATES.

*Be it enacted, etc., as follows:*

SECTION 1. The city of Boston shall provide for use by the registrar of births, deaths and marriages of said city an official seal, and said registrar shall attest all certificates from records in his custody with said seal.

SECT. 2. Every town shall provide for the use of its town clerk an official seal, bearing the name of the town and the date of its incorporation, and of such general design as may be approved by the selectmen thereof.

SECT. 3. Said registrar and every city and town clerk, when furnishing a copy of any record of births, deaths or marriages in his charge, shall furnish the same under the official seal of the city or town, as the case may be.

SECT. 4. This act shall take effect on the first day of January in the year eighteen hundred and ninety-nine. [*Approved April 29, 1898.*]



## CHAPTER 453 OF ACTS OF 1898.

## AN ACT TO PROVIDE FOR THE CUSTODY OF CERTAIN RECORDS.

*Be it enacted, etc., as follows :*

SECTION 1. When a church, parish, religious society, monthly meeting of the people called Friends or Quakers, or any similar body of persons who have associated themselves together for the purpose of holding religious meetings, shall cease for the term of two years to hold such meetings, the persons having the care of any of the records or registries of such body, or of any officers thereof, shall deliver all such records to the clerk of the city or town in which such body is situated, and such clerk may certify copies thereof.

SECT. 2. If any such body the records or registries of which, or of any officers of which, have been so delivered, shall resume meetings under its former name, or shall be legally incorporated, either alone or with some similiar body, the clerk of said city or town shall, upon demand, made in writing, by a duly authorized person, deliver such records or registries to such person; *provided, however*, that such person shall in writing certify that to the best of his knowledge and belief said meetings are to be continued, or such incorporation has been legally completed.

SECT. 3. Every person who after demand made by the clerk entitled by law to have possession of the records or registries aforesaid wrongfully detains the same, shall on petition of such clerk to the superior court sitting in equity be directed to deliver the same to said clerk.

SECT. 4. Nothing in this act shall be construed to apply to the custody of any records essential to the control of any property or trust funds belonging to any body of persons mentioned in this act.

SECTION 5. This act shall take effect upon its passage. [*Approved May 24, 1898.*]

## CHAPTER 510 OF ACTS OF 1898.

## AN ACT TO PROVIDE A PENALTY FOR THE VIOLATION OF THE LAW RELATIVE TO THE USE OF STANDARD RECORD INKS FOR PUBLIC RECORDS.

*Be it enacted, etc., as follows :*

Section one of chapter three hundred and seventy-eight of the acts of the year eighteen hundred and ninety-four is hereby amended by adding at the end thereof the following: "Any person violating the provisions of this section shall be punished by a fine of not exceeding fifty dollars," — so that the section shall read as follows:

"SECTION 1. No person having the care or custody of any book of record or registry in any of the departments or offices of the Commonwealth or of any city, county or town therein, shall use or allow to be used upon such books any ink excepting such as is furnished by the secretary of the Commonwealth. Any person violating the provisions of this section shall be punished by a fine of not exceeding fifty dollars." [*Approved June 8, 1898.*]

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1888 — An act relating to the certificates and registry of Deaths, and the Burial and Removal of bodies of deceased persons. Chap. 306.....	65

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1889 — An act in relation to the returns of Births and Deaths. Chap. 208 .....	66
1889 — An act in relation to the returns of Births, by physicians and midwives. Chap. 288.....	66
1890 — An act in relation to the return and record of Deaths. Chap. 402.....	67
1892 — An act relating to the record and return of Marriages. Chap. 300.....	67
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1893 — An act relative to solemnizing Marriages. Chap. 461.....	70
1894 — An act relating to return of Births, Marriages and Deaths. Chap. 206.....	71
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1894 — An act relative to records of Births, Deaths and Marriages. Chap. 402.....	71
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1895 — An act relative to Marriage and the Legitimacy of Children. Chap. 427.....	73
1896 — An act relative to Marriage and the Legitimacy of Children. Chap. 499.....	73
1896 — An act relative to Marriages. Chap. 306.....	74
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1898 — An act relative to Official Seals and Certificates. Chap. 389.....	83
1898 — An act to provide for the Custody of Certain Records. Chap. 453,	84
1898 — An act to provide a penalty for the violation of the Law relative to the use of Standard Record Inks for Public Records. Chap. 510.....	84





It seems that the Legislature of Massachusetts had made provision for this point. In the Revised Statutes of 1836, chapter 4, section 13, it was provided that

“If, at any election a greater number of candidates than the number to be elected shall severally receive a majority of the whole number of ballots, a number equal to the number to be elected, of such as have the greatest excess over such majority, shall be deemed and declared to be elected; but if the whole number to be elected cannot thus be completed, by reason of any two or more of such candidates having received an equal number of ballots, the candidates having such equal number shall be deemed not to be elected.”

This was during the period when an absolute majority was necessary to a choice; but in 1855 the plurality law was established by Amendment No. 14. The statute was then altered (see Gen. Stat., chap. 7, § 14, and Pub. Stat., chap. 7, § 25), providing that in all elections of civil officers by the people, “the person or persons having the highest number of votes shall be deemed and declared elected, but no persons receiving the same number of votes shall be deemed to be elected, if thereby a greater number would be elected than required by law.”

This, of course, did away with the old trouble of having too many candidates receive a majority vote, as that feature was not essential. It is confined, however, to popular elections, and the case still arises in representative bodies, city councils, societies, and others where the majority rule remains.

I trust, therefore, this little explanation will not be deemed superfluous.

W. H. WHITMORE.

Boston, March 17, 1892.



# LIST OF CITY CLERKS, 1898.

CITIES.	INCORPORATED.	CLERKS.
Boston . . . . .	1822	{ John Mitchel Galvin. William H. Whitmore (Registrar).
Salem . . . . .	1836	J. Clifford Entwisle.
Lowell . . . . .	1836	Girard P. Dadman.
Cambridge . . . . .	1846	Edward J. Brandon.
New Bedford . . . . .	1847	Daniel B. Leonard.
Worcester . . . . .	1848	Enoch H. Towne.
Lynn . . . . .	1850	Joseph W. Attwill.
Newburyport . . . . .	1851	George H. Stevens.
Springfield . . . . .	1852	E. A. Newell.
Lawrence . . . . .	1853	William T. Kimball.
Fall River . . . . .	1854	George A. Ballard.
Chelsea . . . . .	1857	George B. Gurney.
Taunton . . . . .	1864	Edwin A. Tetlow.
Haverhill . . . . .	1869	William W. Roberts.
Somerville . . . . .	1871	George I. Vincent.
Fitchburg . . . . .	1872	Walter A. Davis.
Holyoke . . . . .	1873	Edward A. Kane.
Gloucester . . . . .	1873	John J. Somes.
Newton . . . . .	1873	Isaac F. Kingsbury.
Malden . . . . .	1881	Leverett D. Holden.
Brockton . . . . .	1881	DeWitt C. Packard.
Northampton . . . . .	1883	Egbert I. Clapp.
Waltham . . . . .	1884	Luman N. Hall.
Quincy . . . . .	1888	Harrison A. Keith.
Woburn . . . . .	1888	John H. Finn.
Pittsfield . . . . .	1889	Edward C. Hill.
Chicopee . . . . .	1890	John D. White.
Marlborough . . . . .	1890	Peter B. Murphy.
Medford . . . . .	1892	Allston P. Joyce.
Everett . . . . .	1892	Joseph H. Cannell.
Beverly . . . . .	1894	Luther S. Herrick.
North Adams . . . . .	1895	Charles S. Brooker.

ANNUAL REPORT  
OF THE  
REGISTRY DEPARTMENT  
OF THE  
CITY OF BOSTON  
FOR THE  
YEAR 1898

[The first report of this department was for the year 1849. No report was issued for the years 1860 and 1861. The title-page of the report for 1882 is wrongly printed as Document 80 of 1882, instead of 1883.]



BOSTON  
MUNICIPAL PRINTING OFFICE  
1899



## A MYSTERY OF THE BALLOT.

(From the *Nation* for April 14, 1892.)

In looking over the pages of the *Historical Magazine* I noticed an article copied from the *Boston Advertiser* for some date about A.D. 1860, calling attention to a matter which has often puzzled those who have counted ballots. It is this: when several persons ballot honestly to choose several persons on one ballot, how is it that more than the necessary number receive a majority of ballots? For example: if five men each vote for three candidates, requiring thus three votes to elect, why is it that more than three of them get three votes? In dealing with larger figures, the number of successful candidates may be so many as to almost double the list. I have known some such instances, and have often heard the statement that the result was impossible and showed evident fraud. After studying the example given in the article quoted, I believe that I discern the principle, a very simple one, but I have never happened to see it stated. I will therefore do so, believing that many persons share my ignorance and will be glad to see an explanation.

The rule seems to be this: multiply the number of officers to be chosen by the number of votes, and divide the result by the number required for an election; the quotient will be the number of persons who can be elected, and the remainder will represent unnecessary or cumulative votes, which may be discarded.

Thus, if five voters each vote for three candidates, a total of fifteen votes is cast; which, divided by three, the number necessary for a choice, gives five candidates receiving a majority vote.

Example:

A	votes for candidates	1, 2, 3.
B	"	1, 2, 3.
C	"	1, 4, 5.
D	"	2, 4, 5.
E	"	3, 4, 5.

The individual ballot might be varied considerably, always resulting, however, in a majority vote for five candidates. In fact, as the majority is always a little more than one-half the number of voters, the quotient in the rule must always be at least one less than double the number of candidates; but the greater the number of voters and candidates, the less the discrepancy will be. In fact, the true answer to the problem seems to be this: the number of candidates receiving a majority may always amount to twice the number voted for on one ballot, *less one* invariably, and also less a few more, according to the results of the rule. But I think it will surprise most persons to find that if 100 persons ballot for 30 candidates, 58 could receive a majority vote, or 51 votes apiece; though a little explanation makes it self-evident.

ANNUAL REPORT  
OF THE  
REGISTRY DEPARTMENT  
OF THE  
CITY OF BOSTON  
FOR THE  
YEAR 1898

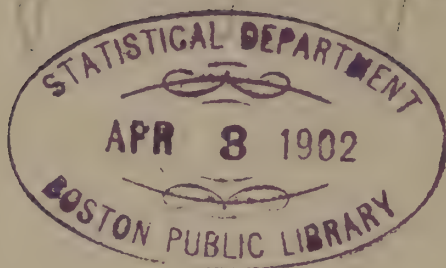
[The first report of this department was for the year 1849. No report was issued for the years 1860 and 1861. The title-page of the report for 1882 is wrongly printed as Document 80 of 1882, instead of 1883.]



BOSTON  
MUNICIPAL PRINTING OFFICE  
1899



City Registry Dept.  
ack



BOSTON, July 1, 1899.

HON. JOSIAH QUINCY,

*Mayor of the City of Boston :*

SIR, — In compliance with the ordinance, I beg leave to report that, according to our books, there were recorded for the year 1898,

16,680 births { including 254 children of parents usually re-  
siding out of this city.  
35 born out of town of Boston parents.

5,907 marriages solemnized in this city.

840 marriages of citizens married elsewhere in the State,  
including 75 marriages of citizens married out of  
the State.

10,903 deaths.

650 still-born children.

As compared with previous years :

	1893.	1894.	1895.	1896.	1897.	1898.
Births . .	14,602	15,401	15,613	16,484	16,973	16,680
Marriages .	5,755	5,464	5,932	6,318	6,062	5,907
Deaths . .	11,713	11,531	11,331	11,650	11,170	10,903

Respectfully submitted,

WILLIAM H. WHITMORE,

*City Registrar.*



## LEGISLATION.

The Legislature of 1899 passed few laws affecting this department, but the Acts will be found in the Appendix. Some progress has been made in regard to official seals, though the result is imperfect. Permission has been given by chapter 354 to use typewriting machines on public records, a scheme of doubtful utility on such records as are kept in this office. Chapter 197 transfers the jurisdiction in the case of minors or young persons of doubtful age to the Probate Courts, and proceedings therein are much more dignified, competent and satisfactory than the investigations of any city or town clerk can be. By chapter 387, the powers of Justices of the Peace to solemnize marriages has been greatly curtailed, and it seems that this step is in the right direction. Beyond doubt many irregularities have occurred in the past, and in a rapidly increasing ratio.

I beg leave to refer to my former reports for statements of legislation greatly needed, to which successive Legislatures have turned a deaf ear.

An important ruling by the Commissioner of Pensions is here given :

DEPARTMENT OF THE INTERIOR,  
BUREAU OF PENSIONS, WASHINGTON, D. C.,  
March 27, 1899.

W. H. WHITMORE, ESQ.,  
*City Registrar, Boston, Mass. :*

SIR, — You are informed that if you are the custodian of the records spoken of, and certify to their correctness under seal of your office and over your signature, said certificate will be received as evidence in this Bureau. It will not be necessary for you to go before a justice of the peace and take an oath to the certificate.

The same rule would apply to town clerks if they were custodians of the records spoken of, and were authorized by law to use a seal. If copies of said records are certified to over their signatures, and under seal of their official office, the same would be received as evidence.

Very respectfully,

[Signed]

H. CLAY EVANS,  
*Commissioner.*

FINANCIAL STATEMENT OF THE REGISTRY DEPARTMENT FOR THE YEAR ENDING JANUARY 31, 1899.

Appropriation for 1898-99 . . . . .	\$30,000 00
-------------------------------------	-------------

*Expenditures.*

Salaries . . . . .	\$20,812 30	
Printing . . . . .	5,091 82	
Binding . . . . .	1,247 16	
Births . . . . .	1,772 37	
Sundries . . . . .	927 04	
Unexpended (balance) . . . . .	149 31	
		\$30,000 00

SPECIAL RECEIPTS AND PAYMENTS.

Cash on hand February 1, 1898 (City Document No. 30) . . . . .	\$120 75
--	----------

*Receipts.*

Received for Marriage Licenses, from February 1, 1898, to January 31, 1899, inclusive:

Nos. 495-6, 535, of 1898, = 6,041 certificates		
Nos. 1-539, of 1899, = 539 "		
6,580 " @ 50c. =	3,290 00	
		\$3,410 75



*Expenditures.*

Paid physicians for 12,086 births at 25c., reported from February 1, 1898, to February 1, 1899, as per vouchers \* paid in by me to the Auditor and receipted for by him, viz.:

1898.				
February,	702 births @ 25c. =	\$175	50	
March,	915 " " =	228	75	
April,	1,002 " " =	250	50	
May,	1,093 " " =	273	25	
June,	936 " " =	234	00	
July,	1,079 " " =	269	75	
August,	980 " " =	245	00	
September,	1,030 " " =	257	50	
October,	954 " " =	238	50	
November,	953 " " =	238	25	
December,	1,208 " " =	302	00	
1899.				
January,	1,234 " " =	308	50	
	12,086 " " =	\$3,021.50		\$3,021 50
Cash balance, February 1, 1899				389 25
				<u>\$3,410 75</u>

RECORD COMMISSIONERS' ITEMS ON ACCOUNT OF ANCIENT  
RECORDS FOR TWO FINANCIAL YEARS.

## 1897-98.

Resetting title to page 332, inclusive, thirteenth report . . . . .	\$555 12
Resetting pages 33-104 and 176-324, inclusive, nineteenth report . . . . .	417 15

## 1897-98-99.

Twenty-eighth report (issued) . . . . .	\$1,731 44
Twenty-ninth report (in progress) . . . . .	939 81
Thirtieth report (in progress) . . . . .	996 94

* February to June, inclusive . . . . .	\$1,162 00
July to October, inclusive . . . . .	1,010 75
November to January, 1899, inclusive . . . . .	848 75
	<u>\$3,021 50</u>

## APPENDICES.





## APPENDIX A

NOTEWORTHY PERSONS WHO DIED IN BOSTON IN 1898.

DATE OF DEATH.		AGE.
1898.		
Jan.	1 Martha Benwell . . . . .	79
	1 Nancy M. Richardson . . . . .	76
	1 William B. Bayley . . . . .	78
	2 Thomas Redington . . . . .	76
	2 Michael Sullivan . . . . .	87
	2 Hannah Barrett . . . . .	86
	2 George P. Ray . . . . .	75
	3 Maria Fuller . . . . .	75
	3 Samuel Hill . . . . .	78
	3 Azariah S. Newcomb . . . . .	87
	3 Sophronia C. Clark . . . . .	86
	3 Margaret Wheelock . . . . .	89
	4 Margaret Sullivan . . . . .	75
	5 Abigail A. Trufant . . . . .	78
	6 Charles Durham . . . . .	74
	7 Cordelia H. Turner . . . . .	79
	7 Margaret Donnelly . . . . .	91
	7 Olive E. Hayden . . . . .	79
	7 Frederick H. Hodgman . . . . .	80
	7 Agostino Foppiano . . . . .	75
	8 Helen Hartigan . . . . .	86
	8 Francis H. Ellis . . . . .	85
	9 Ann McKenney . . . . .	92
	10 Isaac Stern . . . . .	86
	10 Daniel Cram . . . . .	83
	10 Rachael Adams . . . . .	82
	10 Martha C. Rice . . . . .	93
	11 Caroline F. Towne . . . . .	79
	11 George Cutler . . . . .	76
	11 Bridget Gleason . . . . .	93
	12 Elisha B. Bridgman . . . . .	74
	12 Eliza A. Hobb . . . . .	75
	13 Ann McGrath . . . . .	90
	13 George L. Earl . . . . .	75
	13 Albert Stedman . . . . .	91
	14 Hannah B. Beckett . . . . .	76
	15 Hazen P. Huntoon . . . . .	77
	15 Thomas Butler . . . . .	78
	16 William M. Hopkins . . . . .	75
	16 Elizabeth W. Gregerson . . . . .	83
	16 Sarah E. Taylor . . . . .	78
	16 Nancy Greenleaf . . . . .	81
	16 Samuel Cushing . . . . .	77
	16 Concetta Romano . . . . .	75
	17 Charles H. Kidder . . . . .	47
	17 Ann Wright . . . . .	80
	18 Naddleman Bennett . . . . .	79
	19 Joseph E. O'Hara (Physician) . . . . .	49
	20 Susan Hersey . . . . .	83
	20 Johanna Dempsey . . . . .	88
	20 Daniel Sheehan . . . . .	75
	21 Hannah Patterson . . . . .	94



DATE OF DEATH.												AGE.
1898.												
Jan.	21	Joanna Nolan .	.	.	.	.	.	.	.	.	.	76
	21	Mary A. Hall .	.	.	.	.	.	.	.	.	.	75
	22	Julia A. Henry .	.	.	.	.	.	.	.	.	.	80
	22	Mary Williams .	.	.	.	.	.	.	.	.	.	77
	22	Dennis Cragin .	.	.	.	.	.	.	.	.	.	77
	23	Louisa Smith .	.	.	.	.	.	.	.	.	.	83
	23	Rufus Folsom .	.	.	.	.	.	.	.	.	.	79
	23	Thomas W. Tuttle .	.	.	.	.	.	.	.	.	.	81
	24	Margaret Taylor .	.	.	.	.	.	.	.	.	.	80
	24	John B. Tileston .	.	.	.	.	.	.	.	.	.	63
	24	Felix Sweeney .	.	.	.	.	.	.	.	.	.	85
	24	Mary Lydon .	.	.	.	.	.	.	.	.	.	75
	25	Elizabeth Lynch .	.	.	.	.	.	.	.	.	.	77
	27	Mary J. Weed .	.	.	.	.	.	.	.	.	.	85
	27	B. Frank Thayer .	.	.	.	.	.	.	.	.	.	68
	28	Abbie M. Durgin .	.	.	.	.	.	.	.	.	.	84
	28	Levi Prosser .	.	.	.	.	.	.	.	.	.	74
	29	Frederick L. Richardson .	.	.	.	.	.	.	.	.	.	76
	29	Morton Bradford .	.	.	.	.	.	.	.	.	.	80
	30	William H. Ring .	.	.	.	.	.	.	.	.	.	54
	30	Catharine Johnson .	.	.	.	.	.	.	.	.	.	85
	31	Cornelia W. Richards .	.	.	.	.	.	.	.	.	.	84
Feb.	2	Eliza A. Cummings .	.	.	.	.	.	.	.	.	.	76
	2	William S. Hanford .	.	.	.	.	.	.	.	.	.	75
	2	Martha A. L. Browne .	.	.	.	.	.	.	.	.	.	87
	2	Joseph A. Smith .	.	.	.	.	.	.	.	.	.	76
	4	Samuel B. Whitney .	.	.	.	.	.	.	.	.	.	82
	4	Levi J. Smith (M.D.) .	.	.	.	.	.	.	.	.	.	65
	4	William N. Brodbeck (Rev.) .	.	.	.	.	.	.	.	.	.	50
	4	Francis V. Balch (Lawyer) .	.	.	.	.	.	.	.	.	.	59
	4	Feroline W. Fox .	.	.	.	.	.	.	.	.	.	87
	5	John F. Egan (Fire Chief) .	.	.	.	.	.	.	.	.	.	48
	5	George J. Gottwald (Lieut. Fire Dept.) .	.	.	.	.	.	.	.	.	.	31
	5	William J. Welch (Fire Dept.) .	.	.	.	.	.	.	.	.	.	25
	5	Patrick Disken (Fire Dept.) .	.	.	.	.	.	.	.	.	.	43
	5	John J. Mulhearn (Fire Dept.) .	.	.	.	.	.	.	.	.	.	29
	5	James H. Victory (Fire Dept.) .	.	.	.	.	.	.	.	.	.	43
	5	William Hagerty .	.	.	.	.	.	.	.	.	.	83
	5	Robert Morrow .	.	.	.	.	.	.	.	.	.	76
	5	Mary Dolan .	.	.	.	.	.	.	.	.	.	82
	5	Caroline L. Stanwood .	.	.	.	.	.	.	.	.	.	80
	5	Martha Ellingwood .	.	.	.	.	.	.	.	.	.	82
	6	Rosa Von Euw .	.	.	.	.	.	.	.	.	.	76
	6	Ann M. Henrick .	.	.	.	.	.	.	.	.	.	78
	6	Leander S. Kenney .	.	.	.	.	.	.	.	.	.	80
	6	Lloyd H. Brooks .	.	.	.	.	.	.	.	.	.	84
	6	Richard A. Urann .	.	.	.	.	.	.	.	.	.	85
	6	George Curtis .	.	.	.	.	.	.	.	.	.	80
	6	Sullivan A. Johnston (ex-Police Sergt.) .	.	.	.	.	.	.	.	.	.	59
	7	Ebenezer P. Oliver .	.	.	.	.	.	.	.	.	.	78
	7	Eliza Brereton .	.	.	.	.	.	.	.	.	.	78
	7	Eliza R. Fitz .	.	.	.	.	.	.	.	.	.	87
	7	Joseph P. Nute .	.	.	.	.	.	.	.	.	.	82
	8	William R. McGowan .	.	.	.	.	.	.	.	.	.	77
	8	James E. Hayes (State Senator) .	.	.	.	.	.	.	.	.	.	32
	8	George W. Grant .	.	.	.	.	.	.	.	.	.	78
	8	Francis O'Connor .	.	.	.	.	.	.	.	.	.	76
	8	Albert Roberts (Missionary) .	.	.	.	.	.	.	.	.	.	46
	9	Martha Hutchinson .	.	.	.	.	.	.	.	.	.	90
	10	Nathan W. Hersey .	.	.	.	.	.	.	.	.	.	85
	10	Charles Amory .	.	.	.	.	.	.	.	.	.	89

Killed at  
Merrimac  
street fire.

# REGISTRY DEPARTMENT.

9

DATE OF DEATH.

AGE.

1898.

Feb.	10	Nancy R. Guilford . . . . .	82
	10	Elizabeth Kennedy . . . . .	78
	10	Joshua H. Wilder . . . . .	78
	11	John A. Loring (Lawyer) . . . . .	73
	11	Elizabeth Thorne . . . . .	89
	11	Margaret Cullan . . . . .	80
	11	Hannah O. Latham . . . . .	83
	11	John E. Hickey (Rev.) . . . . .	41
	12	Alfred A. Clatur . . . . .	62
	12	Cecelia Healey . . . . .	80
	12	Daniel McKenzie . . . . .	76
	12	Samuel Mason, jr. . . . .	75
	14	Eliza S. Cook . . . . .	81
	15	Margaret Scott . . . . .	84
	15	John G. Herter . . . . .	75
	15	Alexander Wadsworth . . . . .	91
	15	Patrick Slattery . . . . .	90
	15	Jane C. Angier . . . . .	87
	16	Mary O. Kingsbury . . . . .	82
	16	Joseph Bender . . . . .	80
	16	Charles McCracken . . . . .	83
	17	William H. Richan (Rev.) . . . . .	64
	17	Eliza C. Gould (Teacher) . . . . .	72
	18	Elkanah H. Wildes . . . . .	77
	18	Amelia B. Whitaker . . . . .	77
	19	Samuel Gerrish . . . . .	80
	19	John E. Grace . . . . .	86
	19	Mary Allen . . . . .	87
	19	Franklin Oliver . . . . .	77
	19	Louisa A. Platts . . . . .	82
	19	William U. Moulton . . . . .	73
	20	Mary S. Story . . . . .	88
	20	John H. Sawyer . . . . .	89
	21	James Smith . . . . .	66
	21	Michael B. Coogan (Lawyer) . . . . .	39
	22	Cornelius Driscoll . . . . .	83
	22	Caroline S. Pickman . . . . .	78
	22	Mary Nolan . . . . .	96
	24	Julia A. Woodward . . . . .	83
	25	Jane Donovan . . . . .	95
	25	Rose Miner . . . . .	89
	26	James Trumbull . . . . .	79
	28	Charles H. Browne (M.D.) . . . . .	85
	28	Rose A'Derrigo . . . . .	83
March	1	Jane McCann . . . . .	82
	1	Thomas Gardner . . . . .	84
	2	Mary A. Remick . . . . .	84
	2	Francis A. Kemp . . . . .	81
	2	Matthew Bolles . . . . .	90
	2	Jonathan P. Marsh . . . . .	83
	4	Lavinia R. Warren . . . . .	80
	4	Dennis O'Meara . . . . .	80
	5	Christopher H. Starr . . . . .	91
	5	Richard Murray . . . . .	94
	5	Rebecca Miles . . . . .	80
	5	Eleanor B. Starratt . . . . .	86
	6	Annie Brown . . . . .	72
	7	Lemuel Clark . . . . .	82
	7	Michael Erb . . . . .	78
	7	Elizabeth B. Cummings . . . . .	78
	7	David C. Ryder . . . . .	77



## DATE OF DEATH.

## AGE.

1898.

March	9	Charlotte B. Pollard	.	.	.	.	.	.	.	80
	9	Seth Bryant	.	.	.	.	.	.	.	97
	9	Humphrey C. Knapp	.	.	.	.	.	.	.	85
	9	Catherine Fuchs	.	.	.	.	.	.	.	80
	10	Lorenzo M. Dyer	.	.	.	.	.	.	.	83
	10	Daniel Murphy	.	.	.	.	.	.	.	90
	11	Henry A. Kent	.	.	.	.	.	.	.	89
	11	Ellen Hart	.	.	.	.	.	.	.	85
	11	Jane Crammond	.	.	.	.	.	.	.	79
	12	Mary McDonald	.	.	.	.	.	.	.	84
	13	John Fitzpatrick	.	.	.	.	.	.	.	81
	13	Sarah Whitney	.	.	.	.	.	.	.	86
	13	Mary Curry	.	.	.	.	.	.	.	77
	15	Timothy Griffin	.	.	.	.	.	.	.	81
	16	William C. Woodbury	.	.	.	.	.	.	.	84
	16	Benjamin F. Brackett	.	.	.	.	.	.	.	79
	17	Ruth Cowperthwaite	.	.	.	.	.	.	.	89
	17	William F. Flanders	.	.	.	.	.	.	.	74
	18	Caroline D. Ricker	.	.	.	.	.	.	.	87
	18	Ann Glynn	.	.	.	.	.	.	.	78
	19	Solon W. Bush (Rev.)	.	.	.	.	.	.	.	79
	19	Susan A. Palmer	.	.	.	.	.	.	.	84
	19	Julitta B. Stearns	.	.	.	.	.	.	.	86
	19	Mary Mitchell (Colored)	.	.	.	.	.	.	.	79
	20	Roland Worthington	.	.	.	.	.	.	.	80
	21	Clarissa H. Morse	.	.	.	.	.	.	.	83
	22	Lydia H. Ramsay	.	.	.	.	.	.	.	77
	22	Ann McLaughlin	.	.	.	.	.	.	.	85
	22	William A. Calkins	.	.	.	.	.	.	.	78
	22	Luther H. Angier	.	.	.	.	.	.	.	88
	22	George A. Plummer	.	.	.	.	.	.	.	50
	22	Richard Hurley	.	.	.	.	.	.	.	85
	23	Mary C. Whitmore	.	.	.	.	.	.	.	88
	23	Naomi Chick	.	.	.	.	.	.	.	76
	23	Mary A. Anthone	.	.	.	.	.	.	.	88
	24	Samuel P. Jenks	.	.	.	.	.	.	.	78
	24	John Jones	.	.	.	.	.	.	.	81
	24	Simon Pillsbury	.	.	.	.	.	.	.	82
	24	Sarah T. Bicknell	.	.	.	.	.	.	.	88
	25	John F. Tomfohrde	.	.	.	.	.	.	.	83
	25	Calista Nye	.	.	.	.	.	.	.	85
	26	John T. Knowlton	.	.	.	.	.	.	.	82
	26	John Freeman	.	.	.	.	.	.	.	87
	27	John P. Brawley (Asst. Clerk of Committees)	.	.	.	.	.	.	.	49
	27	John Wall	.	.	.	.	.	.	.	78
	27	Eliza A. Macfarland	.	.	.	.	.	.	.	90
	29	Elizabeth H. Rafter	.	.	.	.	.	.	.	80
	30	Francis E. Davis	.	.	.	.	.	.	.	81
	30	Elizabeth D. Brigham	.	.	.	.	.	.	.	88
	31	Eleanor M. Bryant	.	.	.	.	.	.	.	89
April	1	Patrick Roche	.	.	.	.	.	.	.	80
	2	Lucy A. Wigand	.	.	.	.	.	.	.	78
	3	Zilpha C. Goodwin	.	.	.	.	.	.	.	90
	3	Mary A. Russell	.	.	.	.	.	.	.	89
	4	Angeline S. Hess	.	.	.	.	.	.	.	85
	4	William Tavener	.	.	.	.	.	.	.	76
	4	Hannah Sweeney	.	.	.	.	.	.	.	80
	4	Patrick Nagle	.	.	.	.	.	.	.	86
	5	Jacob Dickens	.	.	.	.	.	.	.	83
	5	George M. King	.	.	.	.	.	.	.	81
	5	John Regan	.	.	.	.	.	.	.	90

# REGISTRY DEPARTMENT.

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DATE OF DEATH.

AGE.

1898.

April	5	Moses W. Swatz . . . . .	85
	6	Catherine Murphy . . . . .	80
	6	Michael Collins . . . . .	87
	6	Margaret McKay . . . . .	84
	6	Abigail R. Osgood . . . . .	81
	6	Eliza Nichols . . . . .	89
	7	William Snow . . . . .	75
	9	Patrick Glynn . . . . .	78
	9	Matilda E. Francis . . . . .	84
	10	Sarah L. Schreider . . . . .	77
	10	Catherine McNamara . . . . .	80
	11	Catherine Harrington . . . . .	89
	11	Cornelia M. Hammond . . . . .	77
	11	Caroline L. Thacher . . . . .	77
	11	Jerusha S. Dodge . . . . .	83
	11	Joseph Knoblock . . . . .	76
	12	John O'Sullivan . . . . .	87
	12	Lewis W. Tappan . . . . .	83
	13	Neil Boner . . . . .	96
	13	John Walker . . . . .	85
	15	Mary McCarthy . . . . .	80
	16	James Donlan . . . . .	78
	16	Joel S. Wood . . . . .	85
	17	Charles Stinson . . . . .	85
	17	Catherine Gillespie . . . . .	84
	17	Joseph W. Reed . . . . .	77
	17	John G. Jones . . . . .	76
	17	Patrick W. Havey . . . . .	76
	17	David Berkman (M.D.) . . . . .	55
	19	Sarah L. Coit . . . . .	80
	19	Barbara M. Ruby . . . . .	89
	21	Henrietta S. Reed . . . . .	80
	21	Daniel Barteaux . . . . .	74
	21	Joshua Brest . . . . .	86
	21	Peter Fee . . . . .	79
	21	Marcia A. Waldron . . . . .	88
	22	James G. Pierce . . . . .	77
	22	Catherine S. Vose . . . . .	85
	23	Barbara W. Thain . . . . .	82
	23	Catherine Callaghan . . . . .	80
	23	William J. Stevens . . . . .	77
	23	Levi Cooley . . . . .	83
	24	Rebecca Howard . . . . .	96
	24	Patrick McGuire . . . . .	89
	24	Manly A. Whitman (Police Inspector) . . . . .	44
	24	Albert W. Putnam . . . . .	76
	25	John Adams . . . . .	85
	25	Lorenzo Smith . . . . .	79
	25	John Oburg . . . . .	79
	26	Sarah Morrill . . . . .	81
	28	Sarah W. Rumney . . . . .	82
	28	Louis Gordon . . . . .	84
	28	Patrick Collins . . . . .	72
	29	Elijah Orcutt . . . . .	84
	29	Henry B. Matthews . . . . .	94
	30	William Montgomery . . . . .	93
May	1	Philip H. Sears . . . . .	74
	2	William Prior . . . . .	79
	2	Jonas K. Tyler . . . . .	73
	2	Thomas J. Ridler . . . . .	82
	3	Bridget Ring . . . . .	90



DATE OF DEATH.									AGE.
1898.									
May	3	Margaret O'Connor	.	.	.	.	.	.	78
	4	Caroline B. Braman	.	.	.	.	.	.	85
	4	Elizabeth Grueby	.	.	.	.	.	.	85
	4	Mary E. Mulloy	.	.	.	.	.	.	81
	5	Lois G. Stearns	.	.	.	.	.	.	78
	6	Hannah E. Ladner	.	.	.	.	.	.	80
	6	Carl H. F. Proeschold	.	.	.	.	.	.	77
	7	Rebecca Stone	.	.	.	.	.	.	78
	7	Freeman C. Sewall	.	.	.	.	.	.	81
	8	Ann M. Sullivan	.	.	.	.	.	.	78
	8	James Welch	.	.	.	.	.	.	78
	8	Gustavus G. Prescott	.	.	.	.	.	.	79
	9	Hannah E. Coggeshall	.	.	.	.	.	.	74
	9	Almira A. N. Page	.	.	.	.	.	.	89
	9	E. Malvina F. Forbush	.	.	.	.	.	.	78
	10	Cornelia A. Taylor	.	.	.	.	.	.	87
	10	Margaret McGonologue	.	.	.	.	.	.	96
	10	Cyrus A. Page (Editor)	.	.	.	.	.	.	52
	10	Charles P. F. Frenz	.	.	.	.	.	.	83
	11	Elizabeth Dalton	.	.	.	.	.	.	79
	11	Elizabeth H. Herrick	.	.	.	.	.	.	87
	11	Patrick O'Brien	.	.	.	.	.	.	80
	12	Johanna Watson	.	.	.	.	.	.	79
	13	Beulah E. Glufing	.	.	.	.	.	.	86
	13	William W. M. Field	.	.	.	.	.	.	64
	14	Lewis Rabiner	.	.	.	.	.	.	76
	15	Julia R. Eastman	.	.	.	.	.	.	81
	15	Sarah Delano	.	.	.	.	.	.	85
	16	Drusilla Williams	.	.	.	.	.	.	94
	16	William Piggott	.	.	.	.	.	.	77
	16	Joshua S. Duncklee (Chairman Board of Assessors)	.	.	.	.	.	.	58
	16	Oliver H. Perry	.	.	.	.	.	.	76
	16	Theodore A. Thayer	.	.	.	.	.	.	60
	17	Harriet Bates	.	.	.	.	.	.	97
	17	Ann M. Lancaster	.	.	.	.	.	.	76
	17	Bartholomew O. Gross	.	.	.	.	.	.	84
	17	Frances B. Haven	.	.	.	.	.	.	89
	19	Rebecca F. Adams	.	.	.	.	.	.	77
	19	Eliza Josselyn	.	.	.	.	.	.	86
	20	Emily Harwood	.	.	.	.	.	.	82
	20	Daniel Kinnaly	.	.	.	.	.	.	79
	20	Mary A. Wise	.	.	.	.	.	.	82
	21	Alexis Trudel	.	.	.	.	.	.	82
	21	Cornelius Guinee	.	.	.	.	.	.	80
	21	Abbie E. Beaver	.	.	.	.	.	.	82
	22	Phillip Reilly	.	.	.	.	.	.	79
	24	Mary G. McIntyre	.	.	.	.	.	.	91
	24	Mary L. Craig	.	.	.	.	.	.	77
	26	Gideon P. Brown	.	.	.	.	.	.	62
	27	Joshua Hitching	.	.	.	.	.	.	85
	27	Sarah Riley	.	.	.	.	.	.	88
	28	Pauline B. Marsh	.	.	.	.	.	.	81
	28	John Murphy	.	.	.	.	.	.	86
	28	Clara R. Morse	.	.	.	.	.	.	76
	31	Mary C. Lane	.	.	.	.	.	.	81
	31	Thomas Raftery	.	.	.	.	.	.	83
	31	Mary C. Littlefield	.	.	.	.	.	.	81
June	1	Charles Mountfort	.	.	.	.	.	.	79
	1	Samuel A. Adams	.	.	.	.	.	.	79
	1	Mary L. Putnam	.	.	.	.	.	.	87
	3	Lucy Edmands	.	.	.	.	.	.	89

# REGISTRY DEPARTMENT.

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DATE OF DEATH.  
1898.

AGE.

June	3	Frank T. Robinson (Journalist)	52
	4	Michael Murphy	82
	4	John Topham	82
	4	Alanson S. Whitcomb	75
	5	Jonathan A. Lane	76
	6	Ebenezer B. Runrill	78
	6	David H. Sparhawk	83
	6	George Williams	82
	7	Magdelina Kratz	80
	8	Anna S. Ferry	85
	8	Daniel Smith	84
	9	Mary A. Davis	83
	9	George W. Cushing	92
	9	Ann Carroll	90
	11	Eliza J. H. Andrew	71
	12	John H. Burnham	78
	12	Malvina P. Beals	79
	12	Patrick J. Fay	81
	13	William H. Kilby	78
	13	Luthera W. Shorey	86
	13	James Morrissey	82
	14	Jane Mooney	84
	15	Henry S. Goodwin	79
	17	William Johnson	81
	17	Sophia C. Jones (M.D.)	76
	17	Lilli Dessauer	78
	17	John O'Donnell	86
	18	Jane S. Spooner	93
	20	Robert Mann	80
	21	Joseph O'Connell	79
	21	John R. Alley	76
	21	Mary W. Fullerton	102
	22	Hannah Wakefield	79
	23	Harriett C. Hawley	81
	24	Willard G. Flagg	78
	24	George S. Royce	78
	24	Benjamin Wheeler	82
	26	Esther Sawyer	88
	26	Edwin J. Lewis	77
	30	Irene W. Gibson	88
July	1	Charles L. Woodbury	78
	1	William Hunnewell	84
	1	Edward Warren	79
	1	Sarah McKie	84
	2	Alexis Lavigne	82
	3	Ann Coughlin	82
	3	Mary Ryan	95
	3	Eliza A. Nickerson	83
	3	James W. Norcross	76
	3	Helen L. Hale	80
	3	Mary O'Leary	86
	4	Catherine Hickey	83
	4	Matthew Nugent	87
	5	Michael Wall	86
	5	Elizabeth A. Trowbridge	77
	5	Samuel Stillings	79
	5	Andrew J. Hare (M.D.)	57
	6	Lydia A. Hall	77
	7	Margaret O'Neil	83
	7	Darius W. Foss	87
	8	Elizabeth Jackson	77



## DATE OF DEATH.

## AGE.

1898.

July	9	Matthew Lowry . . . . .	83
	9	Sarah N. Messer . . . . .	81
	10	William D. West . . . . .	86
	10	Lucy Bettjemann . . . . .	78
	10	Mary G. Jacobs . . . . .	77
	10	Harvey Bowen . . . . .	80
	10	David W. Wardrop (Col.) Customs Inspector . . . . .	74
	11	Sarah J. Brown . . . . .	77
	11	Elizabeth S. Harrison . . . . .	84
	11	John Wingate . . . . .	82
	12	Caleb Ellis . . . . .	80
	12	Lovander W. Conant . . . . .	77
	13	Grace F. Emery . . . . .	80
	13	Jesse B. Rideout . . . . .	78
	13	Henry Lundeen . . . . .	82
	14	Ann G. Cahill . . . . .	80
	16	Mary T. Dolliver . . . . .	88
	18	George Billings . . . . .	83
	19	Jean B. Lawrence (Teacher) . . . . .	70
	19	Isabella D. Munro . . . . .	79
	20	Laura G. Murdock . . . . .	81
	20	Sarah R. Hinds . . . . .	81
	21	Sarah H. Blair . . . . .	80
	21	Henry W. B. Frost . . . . .	79
	22	Azubah C. Sabin . . . . .	82
	25	Margaret O'Kane . . . . .	80
	26	Samuel T. Bird . . . . .	77
	28	Albert Bowker . . . . .	82
	29	Lydia M. Gardner . . . . .	83
	31	Harriet W. Richardson . . . . .	83
	31	Mercy Whitecomb . . . . .	91
	31	Charles A. Wood . . . . .	80
Aug.	1	Jeanette R. Taws . . . . .	79
	2	Mary H. Munroe . . . . .	88
	2	Hannah Goodwin . . . . .	78
	3	John M. Marston . . . . .	80
	4	Margaret Mullaney . . . . .	79
	5	Samuel Jackson . . . . .	81
	7	Margaret Sullivan . . . . .	85
	8	Sarah A. D. Bailey . . . . .	88
	8	James McLaughlin . . . . .	88
	8	Mary C. F. Wilson . . . . .	86
	8	Nancy A. Wyart . . . . .	77
	9	Mary C. Bacon . . . . .	83
	9	Ellen Canty . . . . .	80
	9	Frederick B. Bogan (Colonel of 9th Regt. Mass. Vols ),	46
	10	Lucy Sprague . . . . .	87
	10	James Granlee . . . . .	84
	11	Thomas Jones . . . . .	80
	12	Prudence S. Nichols . . . . .	79
	13	Mary Callahan . . . . .	81
	13	Mary C. M. Austin . . . . .	84
	13	Timothy Kelliher . . . . .	89
	14	Rosalie Elson . . . . .	78
	15	John Farren . . . . .	81
	15	Charles T. Plimpton . . . . .	77
	16	Patrick Kelley . . . . .	86
	17	Sarah A. Haynes . . . . .	77
	17	Hiram Wellington . . . . .	93
	17	James L. Oliver . . . . .	78
	20	Mary A. N. Robinson . . . . .	78

# REGISTRY DEPARTMENT.

15

DATE OF DEATH.

AGE.

1898.

Aug.	20	Mary McBarron	.	.	.	.	.	.	.	95
	20	Martha A. Thompson	.	.	.	.	.	.	.	78
	20	Mary H. Downe (Teacher)	.	.	.	.	.	.	.	58
	20	Catherine McCann	.	.	.	.	.	.	.	84
	22	Margaret Trehy	.	.	.	.	.	.	.	81
	22	Martha P. Perkins	.	.	.	.	.	.	.	82
	23	Martha Brodrick	.	.	.	.	.	.	.	81
	23	Isaac A. Herrick	.	.	.	.	.	.	.	88
	23	Ann D. Tucker	.	.	.	.	.	.	.	85
	23	Joseph W. Domett	.	.	.	.	.	.	.	79
	23	Charles B. Belt (M.D.)	.	.	.	.	.	.	.	51
	23	John T. Harris (M.D.)	.	.	.	.	.	.	.	78
	23	Joanna Keeler	.	.	.	.	.	.	.	80
	24	Abbie G. Rice	.	.	.	.	.	.	.	77
	24	Ellen Whelton	.	.	.	.	.	.	.	78
	24	Mary Kiley	.	.	.	.	.	.	.	82
	24	Mary O'Hara	.	.	.	.	.	.	.	80
	24	Elizabeth H. Green	.	.	.	.	.	.	.	84
	25	Elmina N. Gavitt (M.D.)	.	.	.	.	.	.	.	68
	25	Catherine Cahill	.	.	.	.	.	.	.	80
	25	Febronia Gerhard	.	.	.	.	.	.	.	84
	25	Maria L. Crawley	.	.	.	.	.	.	.	82
	25	Eliza E. Bates	.	.	.	.	.	.	.	81
	26	Daniel Cronin	.	.	.	.	.	.	.	78
	27	Sarah C. Pierce	.	.	.	.	.	.	.	79
	29	Charlotte J. Robbins	.	.	.	.	.	.	.	77
	29	Franklin King	.	.	.	.	.	.	.	89
	29	Mary Sullivan	.	.	.	.	.	.	.	84
	30	Benjamin Whelden	.	.	.	.	.	.	.	82
Sept.	1	George P. K. Walker	.	.	.	.	.	.	.	72
	1	John L. Neilson (M.D.)	.	.	.	.	.	.	.	51
	2	James Waldock (M.D.)	.	.	.	.	.	.	.	75
	3	Sarah Mahoney	.	.	.	.	.	.	.	80
	4	Sarah Brown	.	.	.	.	.	.	.	86
	4	Bartholomew Carr	.	.	.	.	.	.	.	83
	4	Reuben A. Upton	.	.	.	.	.	.	.	80
	5	Bridget Cannon	.	.	.	.	.	.	.	80
	5	William Sanders	.	.	.	.	.	.	.	80
	5	Anna M. Krim	.	.	.	.	.	.	.	88
	6	Ermina E. Lord	.	.	.	.	.	.	.	77
	7	Margaret Condon	.	.	.	.	.	.	.	95
	7	Catherine Fuller	.	.	.	.	.	.	.	84
	10	Ann Dixon	.	.	.	.	.	.	.	86
	10	Jacob Steinberg	.	.	.	.	.	.	.	83
	10	James H. Osgood (M.D.)	.	.	.	.	.	.	.	65
	11	Sarah McNeil	.	.	.	.	.	.	.	100
	11	Bridget Rogers	.	.	.	.	.	.	.	83
	13	Frederick W. Lincoln (ex-Mayor)	.	.	.	.	.	.	.	81
	13	Hannah D. Cox	.	.	.	.	.	.	.	95
	14	Mary R. Clement	.	.	.	.	.	.	.	97
	14	Margaret Sweeney	.	.	.	.	.	.	.	80
	14	John J. Schwartz	.	.	.	.	.	.	.	85
	15	Nicholson Broughton	.	.	.	.	.	.	.	70
	16	Frederick F. Weden	.	.	.	.	.	.	.	86
	16	Alfred H. Clark (Hotel Proprietor)	.	.	.	.	.	.	.	58
	16	Margaret Curran	.	.	.	.	.	.	.	79
	16	Henry Bulling	.	.	.	.	.	.	.	82
	17	Alice Mongan	.	.	.	.	.	.	.	93
	18	Annie M. Mason	.	.	.	.	.	.	.	77
	19	Sarah H. Edmond	.	.	.	.	.	.	.	84
	19	John Magrane	.	.	.	.	.	.	.	87



## DATE OF DEATH.

## AGE.

1898.			
Sept.	19	Dennis Murphy . . . . .	88
	19	Catharine Wolfe . . . . .	88
	21	John P. Glidden . . . . .	76
	21	Samuel G. Pierce . . . . .	82
	21	Patrick Finnegan . . . . .	79
	21	Edward M. Putnam . . . . .	88
	22	Hannah G. Nichols . . . . .	74
	22	Sarah A. Lyon . . . . .	79
	22	Ellen Dame . . . . .	84
	22	Richard Garvey . . . . .	90
	22	Mary A. Chadbourn . . . . .	84
	22	William Cronin . . . . .	80
	22	Mary A. McDougall . . . . .	80
	22	Albert H. Rhodes . . . . .	76
	23	Ann Dailey . . . . .	80
	23	Lawton Rockwell . . . . .	81
	23	Mary Jack . . . . .	78
	23	Barney McGaffigan . . . . .	79
	25	Joseph Ward . . . . .	77
	26	John P. Curran . . . . .	97
	27	Thomas F. Witt . . . . .	81
	28	Henrietta Worthington . . . . .	84
	28	Abigail C. Shedd . . . . .	85
	28	Michael Rice . . . . .	83
	30	Charlotte E. C. Rhoades . . . . .	86
	30	John McNeil . . . . .	85
Oct.	1	Mary Kearns . . . . .	85
	1	Anna M. Milyier . . . . .	86
	2	Catherine Stark . . . . .	85
	2	Abbie Leary . . . . .	80
	3	Susan I. Linzee . . . . .	84
	3	Martha Gray . . . . .	90
	3	John D. W. Joy . . . . .	70
	5	John D. Reveillon . . . . .	79
	5	George W. Lowther (Colored) . . . . .	76
	5	Huldah C. Packard . . . . .	91
	6	Francis V. B. Kern . . . . .	60
	7	Abraham M. Leavitt . . . . .	71
	7	Hugh Cummiskey . . . . .	82
	7	Harriet A. Greenleaf . . . . .	78
	8	Charlotte E. Baker . . . . .	82
	8	Thomas Earl . . . . .	90
	9	William Ross . . . . .	82
	9	Hannah E. Hallett . . . . .	83
	10	John H. Thompson . . . . .	84
	11	Benjamin R. Sturgis . . . . .	80
	12	Mary C. Chick . . . . .	80
	12	James P. Draper . . . . .	71
	12	Elizabeth Peabody . . . . .	78
	14	John McNulty . . . . .	96
	14	Mary A. B. Allan . . . . .	88
	14	Joseph Scarlet (Colored) . . . . .	79
	14	Nicholas Pendergast . . . . .	90
	16	Andreas V. Lewis . . . . .	88
	17	Elizabeth Lawrence . . . . .	83
	17	George M. Bell . . . . .	85
	18	Mary Richardson . . . . .	79
	18	Mary McBurnie . . . . .	79
	18	Harriet A. Pratt . . . . .	82
	19	Edmund Walsh (M.D.) . . . . .	50
	19	Margaret Lehane . . . . .	83

# REGISTRY DEPARTMENT.

17

DATE OF DEATH.

AGE.

1898.

Oct.	19	William H. H. Copeland	.	.	.	.	.	.	.	77
	20	Amanda M. Carleton	.	.	.	.	.	.	.	81
	20	Sarah A. McKenzie	.	.	.	.	.	.	.	88
	22	Cynthia R. Mason	.	.	.	.	.	.	.	82
	22	William Hamilton	.	.	.	.	.	.	.	83
	22	Frances M. Preston	.	.	.	.	.	.	.	78
	23	J. Heber Smith (M.D.)	.	.	.	.	.	.	.	55
	23	Stephen B. Richardson	.	.	.	.	.	.	.	80
	25	Lucy Lombardozzie	.	.	.	.	.	.	.	99
	25	Samuel Sargent	.	.	.	.	.	.	.	80
	26	Dorothy Tyrer	.	.	.	.	.	.	.	79
	26	Hannah Hannum	.	.	.	.	.	.	.	92
	26	James Lovett	.	.	.	.	.	.	.	80
	26	Jane Smith	.	.	.	.	.	.	.	80
	27	Katherine Schnopp	.	.	.	.	.	.	.	77
	27	Ellen Madden	.	.	.	.	.	.	.	80
	28	James Adams	.	.	.	.	.	.	.	79
	28	Sarah C. Sanderson	.	.	.	.	.	.	.	87
	28	Priscilla Greeley	.	.	.	.	.	.	.	82
	29	Philip Kenniff	.	.	.	.	.	.	.	94
	29	Mary Le Patourel	.	.	.	.	.	.	.	79
	30	William Kittredge	.	.	.	.	.	.	.	83
	30	George Munroe (Sergt. Police)	.	.	.	.	.	.	.	51
	30	Mary Slattery	.	.	.	.	.	.	.	82
	31	Ellen Sexton	.	.	.	.	.	.	.	91
	31	Caroline Perry	.	.	.	.	.	.	.	81
Nov.	1	Mary A. Cram	.	.	.	.	.	.	.	82
	1	Jesse King (M.D.)	.	.	.	.	.	.	.	26
	1	John Glynn	.	.	.	.	.	.	.	87
	2	Rebecca W. Sweeney	.	.	.	.	.	.	.	83
	2	Moses P. Brown	.	.	.	.	.	.	.	62
	3	Joseph Segar	.	.	.	.	.	.	.	79
	3	Richard W. Lakeman	.	.	.	.	.	.	.	78
	3	Margaret Reddy	.	.	.	.	.	.	.	89
	4	John M. Call	.	.	.	.	.	.	.	84
	4	John C. Chapman	.	.	.	.	.	.	.	75
	4	Lucinda Swan	.	.	.	.	.	.	.	92
	5	Susan S. Hammond	.	.	.	.	.	.	.	90
	5	Austin Jones	.	.	.	.	.	.	.	83
	5	Philip Bapp	.	.	.	.	.	.	.	76
	6	Helene Wolf	.	.	.	.	.	.	.	96
	6	Cornelia J. Shorey	.	.	.	.	.	.	.	88
	7	Ellen Sullivan	.	.	.	.	.	.	.	93
	7	John L. Roberts	.	.	.	.	.	.	.	83
	8	William T. Wilkinson	.	.	.	.	.	.	.	76
	8	George C. Hill	.	.	.	.	.	.	.	73
	8	Chauncey Thomas	.	.	.	.	.	.	.	76
	9	Mary D. Wellington	.	.	.	.	.	.	.	79
	10	Hannah F. Hill	.	.	.	.	.	.	.	83
	11	Charles A. Hewins	.	.	.	.	.	.	.	76
	11	Charles G. Forristall	.	.	.	.	.	.	.	63
	12	Andrew J. Roberts	.	.	.	.	.	.	.	80
	12	Mary Fales	.	.	.	.	.	.	.	84
	12	Jane P. Ireland	.	.	.	.	.	.	.	79
	14	Mary Carver	.	.	.	.	.	.	.	96
	15	Timothy O'Leary	.	.	.	.	.	.	.	85
	16	Edward Austin	.	.	.	.	.	.	.	95
	17	Harriet C. Kennard	.	.	.	.	.	.	.	80
	17	Humphrey Jameson	.	.	.	.	.	.	.	78
	17	Henry C. Hemmenway	.	.	.	.	.	.	.	68
	18	George Yabsley	.	.	.	.	.	.	.	84



DATE OF DEATH.									AGE.
1898.									
Nov.	19	Lucy T. Swan	.	.	.	.	.	.	78
	19	William W. Draper	.	.	.	.	.	.	77
	19	Elizabeth R. Fisher	.	.	.	.	.	.	88
	19	Caroline S. Dodge	.	.	.	.	.	.	80
	20	Joseph Borrowscale	.	.	.	.	.	.	87
	20	Orsen S. Sanders (M.D.)	.	.	.	.	.	.	78
	20	Christopher Pembroke	.	.	.	.	.	.	89
	20	Honora O'Connor	.	.	.	.	.	.	90
	21	Mary A. P. Weld	.	.	.	.	.	.	83
	22	Mary A. Corcoran	.	.	.	.	.	.	85
	22	Daniel Morris	.	.	.	.	.	.	77
	24	Lucy A. Dunbar	.	.	.	.	.	.	83
	24	Charles Deering	.	.	.	.	.	.	72
	25	John C. Thomas	.	.	.	.	.	.	77
	26	Michael Lennon	.	.	.	.	.	.	83
	26	David Bruce	.	.	.	.	.	.	84
	27	Edward St. John	.	.	.	.	.	.	83
	27	John M. Leary (Pilot)	.	.	.	.	.	.	53
	28	Lydia W. Haley	.	.	.	.	.	.	80
	28	Lydia B. Felt	.	.	.	.	.	.	81
	28	Deborah A. Patterson	.	.	.	.	.	.	82
	29	Nancy A. P. Hersey	.	.	.	.	.	.	81
	30	Eliza Wilder	.	.	.	.	.	.	87
Dec.	1	Johanna Hogan	.	.	.	.	.	.	90
	2	Mary E. Snow	.	.	.	.	.	.	87
	2	Dexter H. Follett	.	.	.	.	.	.	65
	2	Bridget O'Donnell	.	.	.	.	.	.	90
	3	Samuel Swan	.	.	.	.	.	.	81
	5	John N. Dennison	.	.	.	.	.	.	87
	7	Elbridge Fisk	.	.	.	.	.	.	87
	7	Frederick Reinhardt	.	.	.	.	.	.	71
	8	James L. Woodbridge	.	.	.	.	.	.	78
	8	Margaret Murray	.	.	.	.	.	.	88
	9	Carl Siegvist	.	.	.	.	.	.	84
	9	Elizabeth Jepson	.	.	.	.	.	.	76
	9	Eliza Richardson	.	.	.	.	.	.	79
	9	Elizabeth Green	.	.	.	.	.	.	80
	10	Laura W. Halsey	.	.	.	.	.	.	83
	10	Lydia J. Lincoln	.	.	.	.	.	.	79
	10	John L. Gardner	.	.	.	.	.	.	61
	12	George E. Clarke	.	.	.	.	.	.	77
	12	Henriette M. Wetherell	.	.	.	.	.	.	77
	12	Elizabeth P. Capron	.	.	.	.	.	.	86
	12	A. Louisa Eldridge	.	.	.	.	.	.	78
	12	John Baxter	.	.	.	.	.	.	82
	13	Ellen Sweeney	.	.	.	.	.	.	86
	14	John W. Nichols	.	.	.	.	.	.	66
	14	Samuel B. Krogman	.	.	.	.	.	.	81
	15	John F. Randolph	.	.	.	.	.	.	88
	15	Henry A. Rice	.	.	.	.	.	.	82
	16	Elizabeth Brennan	.	.	.	.	.	.	91
	16	Robert Culbert	.	.	.	.	.	.	82
	16	Patrick Corcoran	.	.	.	.	.	.	81
	17	Isaac Ingraham	.	.	.	.	.	.	86
	17	Catherine Hennessey	.	.	.	.	.	.	79
	18	Hosea H. Lincoln	.	.	.	.	.	.	77
	18	Lucy A. Hudson	.	.	.	.	.	.	85
	19	Timothy Donovan	.	.	.	.	.	.	83
	19	Lewis Lombard	.	.	.	.	.	.	79
	19	J. Warren Winslow	.	.	.	.	.	.	73
	19	Thomas Reed	.	.	.	.	.	.	91

REGISTRY DEPARTMENT.

19

DATE OF DEATH.		AGE.
1898.		
Dec.	19 Henry C. Willis . . . . .	71
	19 Albert Pitts . . . . .	53
	20 Abigail C. Sawtell . . . . .	86
	21 Clark Smith . . . . .	81
	21 Matilda C. Allen . . . . .	80
	21 Calvin Lewis . . . . .	79
	21 Ann Doherty . . . . .	80
	22 James Hendrie . . . . .	80
	22 Joseph Whidden . . . . .	75
	23 Mary Miley . . . . .	80
	23 Joseph Wiswell . . . . .	82
	23 Dennis Rush . . . . .	80
	23 Maria Dill . . . . .	87
	24 Elizabeth S. Langley . . . . .	81
	24 Maria Wood . . . . .	84
	25 Mercy W. Crowell . . . . .	86
	25 William A. Kenrick . . . . .	84
	25 George B. Watson . . . . .	85
	25 Mary C. Sanderson . . . . .	78
	26 James Adams . . . . .	81
	26 Margaret Fennelly . . . . .	80
	26 Catherine Sweeney . . . . .	86
	26 Samuel B. Wood . . . . .	69
	26 Hannah H. Hubbard . . . . .	81
	26 Charles Perkins . . . . .	90
	26 Mary A. Hebard . . . . .	83
	27 Putnam Perley . . . . .	78
	28 Mary E. Spinner . . . . .	80
	28 Arthur M. Knapp (Asst. Librarian, Public Library) . . . . .	59
	28 Jeremiah Bumstead . . . . .	85
	29 Catherine A. Sidelinger . . . . .	78
	29 Charles E. Thayer . . . . .	70
	29 Mary A. Arnold . . . . .	86
	29 Sophia A. Black . . . . .	77
	29 Catherine Wray . . . . .	88
	29 Mary Lynch . . . . .	93
	29 Eliza A. Edwards . . . . .	88
	29 Michael Conboy . . . . .	82
	30 Rosolina Tumenia . . . . .	80
	30 William E. Whicher . . . . .	76
	31 Mary A. Youngman . . . . .	82

## RESIDENTS OF BOSTON WHO DIED ELSEWHERE.

Jan.	7	Matilda Richards (Worcester)	.	.	.	.	.	.	80
	22	Elizabeth V. Pratt (Worcester)	.	.	.	.	.	.	77
Feb.	13	James Stevenson (Hampton, Va.)	.	.	.	.	.	.	63
	22	George W. Simmons (Nahant)	.	.	.	.	.	.	60
	22	Daniel O. Barton (Chatham)	.	.	.	.	.	.	58
	26	Ira B. Aldrich (Worcester)	.	.	.	.	.	.	75
Mar.	2	Matthew J. Harkins (Medfield)	.	.	.	.	.	.	42
	8	Mary Leahy (Worcester)	.	.	.	.	.	.	76
	16	Sarah Goodwin (Medfield)	.	.	.	.	.	.	60
	22	Catharine Hallahan (Worcester)	.	.	.	.	.	.	81
	26	Mary McCarthy (Worcester)	.	.	.	.	.	.	90
April	1	Michael Doyle (Somerville)	.	.	.	.	.	.	80
May	12	Charles H. Lewis (Westboro')	.	.	.	.	.	.	84
	14	Joseph Stedman, M.D. (Watkins, N.Y.)	.	.	.	.	.	.	62
	18	Albert R. Terrill (Cohasset)	.	.	.	.	.	.	53
	23	John C. Regan (Providence, R.I.)	.	.	.	.	.	.	69
June	5	John C. Ford (Seattle)	.	.	.	.	.	.	57



DATE OF DEATH.								AGE.
1898.								
June	15	Charles F. Lougee (Waverly)	.	.	.	.	.	83
	19	Edwin W. Frost (Hull)	.	.	.	.	.	37
	22	F. Emile Golde (Littleton, N.H.)	.	.	.	.	.	39
July	4	Marthia E. Morse (Gloucester)	.	.	.	.	.	56
	31	Rev. John W. Galligan (Norfolk, Va.)	.	.	.	.	.	48
Aug.	1	Joseph Comer (Hull)	.	.	.	.	.	66
	5	Almon Hale (Danvers)	.	.	.	.	.	66
	6	Frank P. Collins (Tampa, Fla.)	.	.	.	.	.	25
	16	Walter E. Ford (Hull)	.	.	.	.	.	43
	23	Frank M. Ames (Bristol, Me.)	.	.	.	.	.	65
Sept.	6	Luke Hall (Scituate)	.	.	.	.	.	68
	17	Ralph F. Daley (Taunton)	.	.	.	.	.	69
	19	Elizabeth P. Parker (Plymouth, N.H.)	.	.	.	.	.	87
	28	Sarah F. Ricker (Everett)	.	.	.	.	.	69
Oct.	10	Augustus King (So. Paris, Me.)	.	.	.	.	.	90
	30	Thomas Pollard (Northbridge)	.	.	.	.	.	71
	31	Mary Thorpe (Westboro')	.	.	.	.	.	83
Nov.	26	Rev. Joseph Kreig (Providence R.I.)	.	.	.	.	.	68
Dec.	19	George B. Burrill (Cambridge)	.	.	.	.	.	72
	30	Ingenius P. Sylvester (Middleboro')	.	.	.	.	.	98
	31	Gustaf J. Ekdahl (Taunton)	.	.	.	.	.	58

## UNITED STATES VOLUNTEERS IN SPANISH WAR.

July	1	John Drum, Captain (Santiago, Cuba)	.	.	.	.	.	58
	1	William T. Crocker (El Caney, Cuba)	.	.	.	.	.	19
Aug.	30	William F. Hassett (Camp Alger, Va.)	.	.	.	.	.	26
	3	William G. Sanders (Santiago, Cuba)	.	.	.	.	.	23
	6	George P. McLaughlin " "	.	.	.	.	.	21
	6	Michael J. O'Connor, Major (Siboney, Cuba)	.	.	.	.	.	37
	9	Joseph D. Lane (Santiago, Cuba)	.	.	.	.	.	32
	9	Frank Cary " "	.	.	.	.	.	25
	10	Halfdan R. Breiner " "	.	.	.	.	.	27
	16	Eugene B. McLoughlin (Santiago, Cuba)	.	.	.	.	.	23
	17	James D. Moriarty " "	.	.	.	.	.	18
	23	Leo J. Brady " "	.	.	.	.	.	20
Sept.	23	John J. Mahoney (Porto Rico)	.	.	.	.	.	18
	24	John J. Murphy (Santiago, Cuba)	.	.	.	.	.	24
		Patrick J. Monahan " "	.	.	.	.	.	22
	29	Patrick J. Grady, Major (Santiago, Cuba)	.	.	.	.	.	51
	1	Daniel F. Connors (Camp Wickoff, L.I.)	.	.	.	.	.	22
	1	Hubbard W. White " "	.	.	.	.	.	43
	2	John J. Callahan (Fort Meyer, W. Va.)	.	.	.	.	.	32
	4	John J. Murphy " "	.	.	.	.	.	19
	6	Patrick F. Moriarty (Camp Wickoff, L.I.)	.	.	.	.	.	22
	7	Elden P. Keene " "	.	.	.	.	.	27
	8	Thomas L. Rourke " "	.	.	.	.	.	21
	8	Henry S. Driscoll " "	.	.	.	.	.	21
	10	Edward J. Donigan " "	.	.	.	.	.	23
	10	James H. Kelly (St. Peter's Hospital, New York)	.	.	.	.	.	19
	11	Samuel P. Wiley (Camp Wickoff, L.I.)	.	.	.	.	.	28
	14	James B. Boyle " "	.	.	.	.	.	20
	16	John F. Daley " "	.	.	.	.	.	30
	20	John E. Riley (Colored, Porto Rico)	.	.	.	.	.	37
	24	Simon Brids (New York City)	.	.	.	.	.	18
Oct.	26	John Connors (St. Peter's Hospital, New York)	.	.	.	.	.	24
	19	Joseph S. Donahue (Camp Wickoff, L.I.)	.	.	.	.	.	23
Nov.	19	James F. Mueser " "	.	.	.	.	.	18
	16	William J. Welch (Huntsville, Ala.)	.	.	.	.	.	26
	25	Joseph C. Downey (Naval Hospital, Washington, D.C.)	.	.	.	.	.	30

## LEGISLATION OF 1899.

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### CHAPTER 197 OF ACTS OF 1899.

#### AN ACT RELATIVE TO MARRIAGES OF MINORS.

*Be it enacted, etc., as follows :*

Section two of chapter four hundred and one of the acts of the year eighteen hundred and ninety-four is hereby amended by inserting after the word "order" in the tenth line, the following words: — Said judge of probate may also after due hearing make such an order in the case of a person whose age is alleged to exceed that specified in the preceding section, but who is unable from any cause to produce an official record of his or her birth, to overcome the reasonable doubt of the town or city clerk or registrar, as exercised under the provisions of section two of chapter four hundred and nine of the acts of the year eighteen hundred and ninety-four, — so as to read as follows: — *Section 2.* The judge of probate in any county, after due hearing, may make an order allowing the marriage of a minor under the age specified in the preceding section: *provided*, that said minor resides in a city or town within the county wherein said judge holds court; and *provided, also*, that the father of such minor, or in case of his death the mother, has consented to such order, and that in case neither parent is alive and resident in this Commonwealth a legal guardian has been appointed, whose consent has been given to such order. Said judge of probate may also after due hearing make such an order in the case of a person whose age is alleged to exceed that specified in the preceding section, but who is unable from any cause to produce an official record of his or her birth, to overcome the reasonable doubt of the town or city clerk or registrar, as exercised under the provisions of section two of chapter four hundred and nine of the Acts of the year eighteen hundred and ninety-four. On the receipt of a certified copy of such order by the clerk or registrar of the town or city where such minor resides, he shall receive the notice required by law and issue a certificate as in other cases. [*Approved March 28, 1899.*]

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### CHAPTER 256 OF ACTS OF 1899.

#### AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF CITY AND TOWN SEALS.

*Be it enacted, etc., as follows :*

SECTION 1. The city government of every city not already having a seal shall by ordinance establish a seal of the city and designate the custodian thereof.

SECT. 2. Within one year from the passage of this act every town not already having a seal shall, by such method as may be adopted by vote of the town at a meeting duly called for the purpose, establish a seal of the town, which seal shall be in the custody of the the town clerk; and any paper or document emanating from any officer or board of a town shall, whenever it seems necessary or desirable, be attested with the town seal.

SECT. 3. Section two of chapter three hundred and eighty-nine of the acts of the year eighteen hundred and ninety-eight is hereby repealed. [*Approved April 10, 1899.*]



## CHAPTER 354 OF ACTS OF 1899.

AN ACT RELATIVE TO INKS FOR PUBLIC RECORDS AND TO MAKING SUCH RECORDS BY MEANS OF TYPEWRITING MACHINES.

*Be it enacted, etc., as follows :*

SECTION 1. No person having the care or custody of any public records in any department or office of the Commonwealth, or of any county, city or town therein, shall use or permit to be used upon any public record written by him or under his direction, any ink excepting such as is furnished by the commissioner of public records: *provided, however,* that printing by typewriting machines may be allowed upon such records, subject to the provisions of section four herein.

SECT. 2. Said commissioner shall from time to time advertise for proposals to furnish the several departments and offices of the Commonwealth, and of the counties, cities or towns in which public records are kept, with ink of a standard, and upon conditions to be established by the said commissioner, at such periods and in such quantities as may be required, and the commissioner may contract for the same.

SECT. 3. The inks so furnished, before being accepted by said commissioner, shall be examined by a chemist, to be designated by the commissioner, and if at any time any of said inks shall be found to be inferior to the established standard the commissioner shall have authority to cancel any contract made for furnishing such ink.

SECT. 4. No person having the care or custody of any public records mentioned in section one of this act shall use or permit to be used upon such records any ribbon, pad or other device used for printing by typewriting machines, or any ink contained in such ribbon, pad or device, except such as is approved by the commissioner of public records. Such approval shall be withdrawn by the commissioner whenever he finds that an article approved falls below the standard established by him.

SECT. 5. Any person violating the provisions of sections one or four of this act shall be punished by fine not exceeding fifty dollars.

SECT. 6. Chapter three hundred and seventy-eight of the acts of the year eighteen hundred and ninety-four and chapter five hundred and ten of the acts of the year eighteen hundred and ninety-eight are hereby repealed.

SECT. 7. This act shall take effect on the first day of September in the year eighteen hundred and ninety-nine. [*Approved May 9, 1899.*]

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CHAPTER 387 OF ACTS OF 1899.

AN ACT RELATIVE TO THE SOLEMNIZATION OF MARRIAGES.

*Be it enacted, etc., as follows :*

SECTION 1. No justice of the peace shall solemnize a marriage in this Commonwealth unless he also holds one of the following offices: City or town clerk or assistant city or town clerk; city registrar or assistant city registrar; clerk of a court or assistant clerk of a court; or unless he shall have been specially designated by the Governor as hereinafter provided.

SECT. 2. The Governor may, at his discretion, designate justices of the peace who may solemnize marriages in the city or town in which they severally reside. The number so designated shall not exceed one to every five thousand inhabitants of the city or town; *provided, however,* that one such justice may be designated in each town. Such designation may be revoked by the Governor at any time for cause.

SECT. 3. Each justice of the peace designated as provided in section two shall receive a certificate of such designation, for which he shall

pay to the secretary of the Commonwealth a fee of five dollars; and he shall not solemnize a marriage until he has received such certificate and qualified thereunder.

SECT. 4. The Secretary of the Commonwealth shall annually in January send to the several city and town clerks and city registrars a list of all justices of the peace designated under this act, with the dates of termination of such designations.

SECT. 5. This act shall take effect on the first day of July in the year eighteen hundred and ninety-nine. [*Approved May 23, 1899.*]









# LIST OF CITY CLERKS, 1899.

CITIES.	INCORPORATED.	CLERKS.
Boston . . . . .	1822	{ John Mitchel Galvin. William H. Whitmore (Registrar).
Salem . . . . .	1836	J. Clifford Entwisle.
Lowell . . . . .	1836	Girard P. Dadman.
Cambridge . . . . .	1846	Edward J. Brandon.
New Bedford . . . . .	1847	Daniel B. Leonard.
Worcester . . . . .	1848	Endch H. Towne.
Lynn . . . . .	1850	Joseph W. Attwill.
Newburyport . . . . .	1851	George H. Stevens.
Springfield . . . . .	1852	E. A. Newell.
Lawrence . . . . .	1853	William T. Kimball.
Fall River . . . . .	1854	George A. Ballard.
Chelsea . . . . .	1857	George B. Gurney.
Taunton . . . . .	1864	Edwin A. Tetlow.
Haverhill . . . . .	1869	William W. Roberts.
Somerville . . . . .	1871	George I. Vincent.
Fitchburg . . . . .	1872	Walter A. Davis.
Holyoke . . . . .	1873	Edward A. Kane.
Gloucester . . . . .	1873	John J. Somes.
Newton . . . . .	1873	Isaac F. Kingsbury.
Malden . . . . .	1881	Leverett D. Holden.
Brockton . . . . .	1881	DeWitt C. Packard.
Northampton . . . . .	1883	Egbert I. Clapp.
Waltham . . . . .	1884	Luman N. Hall.
Quincy . . . . .	1888	Harrison A. Keith.
Woburn . . . . .	1888	John H. Finn.
Pittsfield . . . . .	1889	Joseph W. Lewis.
Chicopee . . . . .	1890	John D. White.
Marlborough . . . . .	1890	Peter B. Murphy.
Medford . . . . .	1892	Allston P. Joyce.
Everett . . . . .	1892	Joseph H. Cannell.
Beverly . . . . .	1894	Luther S. Herrick.
North Adams . . . . .	1895	Charles S. Brooker.

ANNUAL REPORT  
OF THE  
REGISTRY DEPARTMENT  
OF THE  
CITY OF BOSTON  
FOR THE  
YEAR 1899

[The first report of this department was for the year 1849. No report was issued for the years 1860 and 1861. The title-page of the report for 1882 is wrongly printed as Document 80 of 1882, instead of 1883.]



BOSTON  
MUNICIPAL PRINTING OFFICE  
1900





ANNUAL REPORT  
OF THE  
REGISTRY DEPARTMENT  
OF THE  
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FOR THE  
YEAR 1899

[The first report of this department was for the year 1849. No report was issued for the years 1860 and 1861. The title-page of the report for 1882 is wrongly printed as Document 80 of 1882, instead of 1883.]

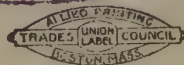
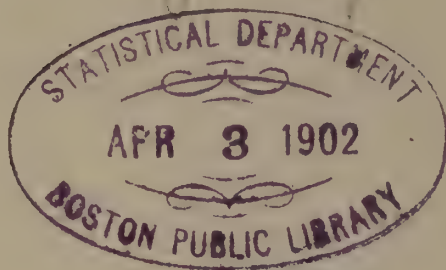


BOSTON  
MUNICIPAL PRINTING OFFICE

1900



City Registry Dept.  
ack



BOSTON, JULY 1, 1900.

HON. THOMAS N. HART,

*Mayor of the City of Boston:*

SIR, — In compliance with the ordinance, I beg leave to report that, according to our books, there were recorded for the year 1899

16,248 births { including 286 children of parents usually residing out of this city.  
28 born out of town of Boston parents.

6,193 marriages solemnized in this city.

982 marriages of citizens married elsewhere in the State, including 168 marriages of citizens married out of the State.

11,178 deaths.

614 still-born children.

As compared with previous years :

	1894.	1895.	1896.	1897.	1898.	1899.
Births . .	15,401	15,613	16,484	16,973	16,680	16,248
Marriages .	5,464	5,932	6,318	6,062	5,907	6,193
Deaths . .	11,531	11,331	11,650	11,170	10,903	11,178

Appropriation for 1899-1900 . . . \$26,000 00



## EXPENDITURES.

Salaries . . . . .	\$20,444 27
Printing . . . . .	1,692 38
Binding . . . . .	1,179 55
Births . . . . .	1,674 00
Sundries . . . . .	961 33
Unexpended balance . . . . .	48 47

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\$26,000 00

## SPECIAL RECEIPTS AND PAYMENTS.

*Receipts.*

Cash on hand, February 1, 1899. (City Document No. 30) . . . . .	\$389 25
Received for Marriage Licenses from February 1, 1899, to January 31, 1900, inclusive :	

Nos. 540—6,975 of 1899, = 6,435 certificates  
 Nos. 1—556 of 1900 = 556 “

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6,991 “ @ 50c.= 3,495 50

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\$3,884 75

*Expenditures.*

Paid physicians for 12,566 births, at 25 cents, reported from February 1, 1899, to February 1, 1900, as per vouchers paid in by me to the Auditor, and receipted for by him, viz. :

1899.					
February . . . . .	827 births @ 25c.	. . . . .	\$206 75		
March . . . . .	984 “ “	. . . . .	246 00		
April . . . . .	1,024 “ “	. . . . .	256 00		
May . . . . .	815 “ “	. . . . .	203 75		
June . . . . .	962 “ “	. . . . .	240 50		
July . . . . .	750 “ “	. . . . .	187 50		
August . . . . .	1,078 “ “	. . . . .	269 50		
September . . . . .	976 “ “	. . . . .	244 00		
October . . . . .	1,072 “ “	. . . . .	268 00		
November . . . . .	1,026 “ “	. . . . .	256 50		
December . . . . .	1,297 “ “	. . . . .	324 25		
January, 1900, . . . . .	1,755 “ “	. . . . .	438 75		

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12,566 = \$3,141 50  
 Cash balance, February 1, 1900 . . . . . 743 25

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\$3,884 75

It is my official duty to announce the death of William H. Whitmore, City Registrar, which occurred at his residence in this city on June 14 last.

Mr. Whitmore was a member of the Common Council in the years 1875, '79, '80, '81, '82, '83, '86, '87, serving as President in 1879.

In 1876 Mr. Whitmore and William S. Appleton, Esq., were appointed Record Commissioners, with Mr. Whitmore as Chairman. In 1892, when he was appointed City Registrar, the work was transferred to this department. Under his supervision twenty-eight volumes of early town records have been printed.

His official connection with the city government thus covered over a quarter of a century.

In his death the city lost an official of the highest character and of marked ability, and the department lost a considerate and just chief.

#### RECORD COMMISSIONERS' REPORTS.

The twenty-ninth report, containing interesting "miscellaneous papers," is nearly ready for printing, and will be distributed during the present year.

The thirtieth report (Boston Marriages from 1751 to 1809, inclusive) is well advanced.

Work on the Aspinwall Notarial Record has been resumed, and the Records of the County Court, 1671 to 1681, have been sent to the printer.

Respectfully submitted,

EDWARD W. MCGLENEN,

*City Registrar.* \*



NOTEWORTHY PERSONS WHO DIED IN BOSTON IN 1899.

DATE OF DEATH.		AGE.
1899.		
Jan.	1 William Bense . . . . .	80
	2 Laban L. Gardner . . . . .	75
	2 Caroline B. Sawyer . . . . .	77
	2 Margaret Walsh . . . . .	78
	2 Elizabeth Murphy . . . . .	97
	3 Lydia A. Barker . . . . .	79
	3 Elizabeth Hutchinson . . . . .	86
	3 Osborn B. Hall . . . . .	77
	3 Mary M. Lethbridge . . . . .	81
	4 Harriet L. Brown . . . . .	84
	4 Susan D. Hovey . . . . .	84
	4 Abner Richardson . . . . .	86
	5 Mercy R. Whitney . . . . .	77
	5 Andrew Peterson . . . . .	87
	6 Sarah T. Snaith . . . . .	89
	6 Miriam M. Deland . . . . .	82
	6 Sally B. Hathaway . . . . .	80
	6 Mary McAvoy . . . . .	80
	7 Colin Gray . . . . .	80
	7 Johanna Callanan . . . . .	94
	7 Samuel B. Cruft (Rev.) . . . . .	82
	7 Ann T. H. Winsor . . . . .	89
	7 Marie Kurmiss . . . . .	80
	8 Lydia W. Dutton . . . . .	71
	8 Hannah H. Bacon . . . . .	90
	9 Ann L. Dow . . . . .	79
	9 Catherine F. Carroll . . . . .	83
10	Hannah M. Norris . . . . .	82
10	Elizabeth A. Cox . . . . .	80
10	Drucilla G. Tuttle . . . . .	81
11	George B. Stebbins . . . . .	83
11	Mary Eddy . . . . .	85
11	Caroline A. Perkins . . . . .	78
11	Ellen W. Blood . . . . .	91
11	Elizabeth W. Hayward . . . . .	80
11	Mary A. Dudley . . . . .	82
11	Ann C. Bowen . . . . .	88
12	Joseph D. Jones . . . . .	101
12	Victoria Herman . . . . .	77
12	Marcia G. Atkins . . . . .	91
12	Jane S. Bremner . . . . .	86
12	Mary Keenan . . . . .	84
13	Catharine Dolan . . . . .	85
14	Annie C. Beattie . . . . .	80
14	Mary Cusick . . . . .	80
14	Bridget Doherty . . . . .	82
14	Johanna Kelley . . . . .	88
14	Mary King . . . . .	99
14	Sarah A. Bradbury . . . . .	83

# REGISTRY DEPARTMENT.

5

DATE OF DEATH.

AGE.

1899.

Jan.	14	Samuel B. Lynch (M.D.)	38
	15	George White	78
	15	Henry A. Houghton (M.D.)	72
	15	Alice Foley	95
	15	Judith Connors	93
	16	James Keogh	85
	16	George W. Adams	80
	16	Ellen Hallihan	90
	16	Mary A. M. Harris	85
	16	Joseph W. Neal	84
	16	Elmira B. Bailey	83
	17	Elizabeth Laster	83
	17	Thomas Gogin	74
	17	Sarah A. Alexander	85
	18	Eliza Rich	89
	18	Patrick Matthews	80
	18	Albert H. Dyer	83
	19	Arletta H. Bixby	83
	19	Ellen M. Church	78
	20	George A. Walker (Police Captain)	56
	20	Tabitha A. Stone	87
	20	Sarah F. Johnson	88
	20	Marcus Bridgman (M.D.)	75
	21	Bridget Tansey	88
	21	George A. Barnard	78
	21	John Jones	87
	21	Edwin Wright (Lawyer)	77
	22	Samuel O. Aborn	81
	21	Georgiana M. Wood	77
	22	William H. Stevens	79
	22	Sarah A. C. Hall	88
	23	Sophia Moon	87
	23	Harriet J. Bancroft	77
	23	Margaret T. Orr	81
	24	Elizabeth McLellan	80
	25	Edmand J. Folsom	81
	25	Mary Byrne	78
	25	Harriet A. Currier	81
	25	Clementina B. Wright	86
	25	Francis Doherty	80
	26	Oliver P. Rollins	83
	26	Joshua Humphrey	77
	28	Mary M. Madigan	84
	28	Lucy M. Clarke	83
	29	Adelheit Tomfohrde	84
	29	Henry Sumner	77
	30	Jane Murphy	99
	30	Sarah Tishler	99
	30	Catherine Millerick	80
	30	Joseph Benari	77
Feb.	1	Lucy A. Hersey	81
	1	Israel Herrick	94
	2	Lavinia Stevens	79
	3	Sarah Lawler	79
	3	John L. Priest	85
	3	Peter Linehan	80
	4	Mary A. K. Molineux	86
	5	Bartholomew Mulrey	81
	5	Thomas Lane	78
	5	Charles H. Fleming (Lawyer)	62
	6	Nathaniel Mitchell	84



## DATE OF DEATH.

## AGE.

1899.

Feb.	6	Lucy A. C. Kimball	88
	6	Francis Oliver	80
	7	John H. Wolfe (colored)	81
	7	Joseph Spinney	83
	7	Henry Barron	77
	7	James McClafferty	78
	9	John Dolan	80
	10	John Wetherbee	83
	11	Grace Barr	77
	11	John Fenlon	83
	11	John F. Abbott	84
	11	Edward McShane	80
	12	Nancy P. Munroe	84
	13	Mary A. Millard	78
	14	Major J. Monson	82
	14	Anna J. W. Swett	79
	15	Frances J. Purdy	82
	16	Hannah Buckley	80
	16	Mary Finley	79
	16	Betsey R. Eaton	85
	16	Elizabeth H. Turner	80
	16	Olive Ferdinand	81
	17	Rebecca T. Hunt	80
	17	Stark Totman	76
	17	John Skilton	88
	18	William M. Howels	79
	19	Sarah J. Brown	81
	19	Thomas Tavener	79
	20	Sarah D. Crafts	77
	21	Susan L. Barnard	83
	21	Emily R. Morrison	84
	22	Richard Cutter	81
	22	James H. Spring	78
	23	John F. Otis	74
	24	George B. Faunce	74
	24	James M. Greenwood	77
	25	Catherine McLaughlin	80
	28	Margaret G. Bell	84
	28	William Sharp	88
March	1	Harriet Mitton	84
	1	Honora Clarke	80
	2	Charlotte W. Wright	79
	3	Amanda E. Young	74
	4	Adeline Shepherd	97
	5	Adeline L. Clifford	80
	5	George M. Miller	90
	5	Ambrose A. Ranney (Lawyer)	77
	5	Dennis Callahan	84
	6	Martin H. Cross	74
	6	Caroline S. Barnard	81
	6	Elizabeth Hough	87
	6	Samuel P. Austin	78
	7	John A. Williams	77
	7	Bernard Farrell	90
	7	William Vollmer	83
	7	Ann Kieley	78
	7	Hannah L. Sawyer	83
	8	Jennet Stailing	90
	9	John J. Northrop (M.D.)	58
	9	Lois Cleaves	83
	9	M. Miranda West	78

# REGISTRY DEPARTMENT.

7

DATE OF DEATH.

AGE.

1899.

March	10	Susan Brackett . . . . .	88
	10	Margaret Murphy . . . . .	87
	10	Agnes Wright . . . . .	79
	10	George Young . . . . .	80
	11	Henry P. Quincy (M.D.) . . . . .	59
	11	James E. McCammon . . . . .	78
	11	Francis McKenna . . . . .	76
	12	Pliny D. Morrill . . . . .	80
	13	Lydia D. Hammett . . . . .	84
	13	Catharine Barrett . . . . .	80
	13	Francis B. Witherell . . . . .	83
	13	John H. Winch . . . . .	83
	14	Cordelia H. G. Grasse . . . . .	74
	14	Eliza C. Morton . . . . .	75
	15	Julia McGrath . . . . .	78
	15	Harriet E. White . . . . .	82
	16	Mary A. Fullick . . . . .	85
	16	Seth S. Moulton . . . . .	86
	18	Samuel Hunt . . . . .	77
	19	Charles S. Allen . . . . .	77
	19	Pietro Cavagnaro . . . . .	83
	19	Catharine McInnis . . . . .	79
	19	Adolph S. Gumbart (Rev.) . . . . .	45
	20	Ichabod Marcy (Rev.) . . . . .	87
	21	Warren Mallard . . . . .	80
	21	Sarah E. Rowell . . . . .	85
	21	Matthew Lyons . . . . .	82
	22	Charlotte O. Vannevar . . . . .	77
	23	Susan T. Jones . . . . .	78
	23	Sarah Feeney . . . . .	90
	23	John D. Walworth . . . . .	76
	23	George S. Pike . . . . .	81
	24	Jane D. Burnham . . . . .	84
	24	Sarah H. Sawyer . . . . .	77
	24	Bridget T. Hoyt . . . . .	78
	24	Agnes R. Dunne . . . . .	78
	24	George H. Kingsbury (Lawyer) . . . . .	72
	25	Mary F. Emerson . . . . .	87
	25	Catherine Quirk . . . . .	80
	25	Joseph R. Partridge . . . . .	80
	26	Olive J. Willard . . . . .	81
	26	Mary A. Simmonds . . . . .	79
	26	Thomas Donohue . . . . .	82
	29	Alvin W. Phillips . . . . .	85
	29	Rufus H. Davis . . . . .	82
	31	Mehitable H. Moulton . . . . .	82
	31	Charles McLaughlin . . . . .	96
	31	Wallace McMillan (M.D.) . . . . .	31
	31	Sarah S. Pratt . . . . .	85
April	1	Charles Whitney . . . . .	90
	3	Sophia Hall . . . . .	79
	4	Caroline A. Beale . . . . .	79
	4	James Gurney . . . . .	80
	4	Harriet F. Wolcott . . . . .	85
	5	Elizabeth S. Elliott . . . . .	79
	7	Hannah M. Lembke . . . . .	79
	7	Eliza Quinn . . . . .	90
	8	Claudius Des Louis (Teacher) . . . . .	57
	8	Frederick D. Stimpson (Editor) . . . . .	73
	8	Caterina Lavezolla . . . . .	84
	8	Charles W. Bailey . . . . .	90



DATE OF DEATH.								AGE.
1899.								
April	9	Edward F. Wells (M.D.)	.	.	.	.	.	50
	10	Louisa R. Coolidge	.	.	.	.	.	87
	10	Theodosia R. Staples	.	.	.	.	.	78
	10	Mary E. Stewart	.	.	.	.	.	89
	11	Catherine Duffey	.	.	.	.	.	101
	13	John Ferguson	.	.	.	.	.	77
	13	Fannie Tibbetts	.	.	.	.	.	80
	14	John Johnson	.	.	.	.	.	79
	14	John C. Moulton	.	.	.	.	.	81
	14	Rachel Etanson	.	.	.	.	.	84
	15	Catharine Kilroy	.	.	.	.	.	85
	15	Johnson Turner	.	.	.	.	.	86
	15	Moses B. Hall	.	.	.	.	.	81
	16	John H. Hunkins	.	.	.	.	.	86
	17	William O. Jackson	.	.	.	.	.	88
	17	Henry McDonald	.	.	.	.	.	87
	17	Catherine Walsh	.	.	.	.	.	83
	18	Francesca Bacigalupo	.	.	.	.	.	96
	18	Lee R. Melcher	.	.	.	.	.	77
	19	Henry Kellogg	.	.	.	.	.	87
	19	Hannah W. Smith	.	.	.	.	.	77
	21	Mary J. Nowell	.	.	.	.	.	80
	21	Frances M. Gibbens	.	.	.	.	.	78
	22	Daniel Monahan	.	.	.	.	.	87
	22	Patrick Quelch	.	.	.	.	.	85
	22	Sarah H. James	.	.	.	.	.	83
	22	Reuben E. Demmon	.	.	.	.	.	78
	22	Annie E. Grant	.	.	.	.	.	87
	23	Mary A. W. Brown	.	.	.	.	.	76
	23	Lucy A. Locke	.	.	.	.	.	84
	23	James White	.	.	.	.	.	78
	23	John Reed	.	.	.	.	.	78
	23	Francis T. Fracker	.	.	.	.	.	76
	24	Alonzo L. Slawson (M.D.)	.	.	.	.	.	58
	25	Eliza Pennoyer	.	.	.	.	.	83
	25	Christopher F. O'Brien (Lawyer)	.	.	.	.	.	30
	26	Sarah Kimball	.	.	.	.	.	87
	26	Loren Downs	.	.	.	.	.	80
	26	Carl Zimmerman	.	.	.	.	.	76
	27	Francis J. Hart (M.D.)	.	.	.	.	.	31
	27	Martha M. Knights	.	.	.	.	.	77
	28	Elizabeth F. W. Douglass	.	.	.	.	.	78
	28	Barbara Norton	.	.	.	.	.	81
	28	Hopie H. Howard	.	.	.	.	.	85
	29	Zebiah N. Tileston	.	.	.	.	.	80
	29	Margaret McAuliffe	.	.	.	.	.	85
	29	Ebenezer Gay	.	.	.	.	.	81
	30	Alvin George	.	.	.	.	.	80
May	1	Margaret Lanergan (Sister Mary of the Sacred Heart),	.	.	.	.	.	45
	1	Thomas Sullivan	.	.	.	.	.	90
	1	Patrick E. Burns	.	.	.	.	.	82
	1	Thaddeus McFarland	.	.	.	.	.	80
	1	William A. Gorton (M.D.)	.	.	.	.	.	44
	2	Bridget Harvey	.	.	.	.	.	77
	2	Laura M. Porter	.	.	.	.	.	59
	2	Phebe B. Spencer	.	.	.	.	.	79
	3	Theresa Moulton	.	.	.	.	.	83
	3	Edward Farren	.	.	.	.	.	83
	4	Angeline D. Hutchinson	.	.	.	.	.	79
	4	David W. Atwood	.	.	.	.	.	89
	4	Martha A. Howard	.	.	.	.	.	80

# REGISTRY DEPARTMENT.

9

DATE OF DEATH.

AGE.

1899.

May	6	Susan Sylvester . . . . .	80
	6	Arcturus O. Sanborn . . . . .	91
	6	Edward Lynch . . . . .	81
	7	Prudence J. Twombly . . . . .	77
	8	Anastasia Kelly . . . . .	86
	8	James MacGoldrick . . . . .	83
	8	Bridget Hefferen . . . . .	77
	9	Patrick Scott . . . . .	78
	9	Ellen Coakley . . . . .	78
	9	Sarah W. D. Lemist . . . . .	90
	11	Sarah B. Peck . . . . .	89
	11	Bartholomew Kelley . . . . .	81
	11	James McCue . . . . .	79
	12	Sally M. Baker . . . . .	91
	12	Mary H. Wardwell . . . . .	79
	13	Bridget Lawton . . . . .	79
	13	Charlotte J. Wells . . . . .	85
	14	Harriet N. Barrows . . . . .	83
	14	Caroline S. Dimmick . . . . .	77
	16	Harvey Jones . . . . .	77
	17	Daniel B. Dods . . . . .	84
	18	Mary A. Fernald . . . . .	87
	19	William E. Hicks . . . . .	77
	19	Catherine Driscoll . . . . .	78
	19	Meheable S. Sears . . . . .	90
	20	Mary Gallagher . . . . .	83
	20	Cornelius McCauley . . . . .	79
	20	Harriett M. Staniford . . . . .	84
	20	Harriett N. Webster . . . . .	83
	20	William Kells . . . . .	77
	21	Reuben Weeks . . . . .	77
	22	John B. Swasey . . . . .	81
	22	Frederica J. Luchterhand . . . . .	91
	23	Lydia Adams . . . . .	92
	23	Rosene Lockhart . . . . .	84
	23	Sarah E. Peabody . . . . .	84
	24	Susan McMann . . . . .	90
	24	Ester McBrine . . . . .	80
	24	Aaron B. Magoun . . . . .	90
	24	Frances York . . . . .	91
	24	Mary T. Smith . . . . .	80
	24	Sarah G. Gilson . . . . .	80
	25	Catherine Canny . . . . .	77
	25	Bridget Garrity . . . . .	82
	25	Sarah Blaney . . . . .	88
	26	Nancy Chapman . . . . .	77
	26	Mary K. Chapman . . . . .	86
	27	Victoria Wood . . . . .	95
	27	Elizabeth W. Josselyn . . . . .	81
	27	Lousia T. Hooper . . . . .	79
	27	Ellen Graham . . . . .	80
	28	Julia A. Cotting . . . . .	94
	29	Ellen Barron . . . . .	79
	29	Ann Kendall . . . . .	105
	29	Sarah B. Whiting . . . . .	86
	30	Mary Desmond . . . . .	80
	30	Sarah A. Kemp . . . . .	82
	31	Plooma F. Kelly . . . . .	79
	31	Edna Morris . . . . .	82
	31	Christopher C. White . . . . .	89
June	1	Samuel Virgin . . . . .	91



## DATE OF DEATH.

## AGE.

1899.

June	2	Dorinda Colson . . . . .	89
	5	Washington Allen . . . . .	76
	5	Eliza C. Scates . . . . .	83
	6	Mary Lindsay . . . . .	87
	6	Morris Mitnick (Rabbi) . . . . .	85
	6	Mary A. Bowie . . . . .	80
	6	Lucy A. Newcomb . . . . .	92
	6	Jeremiah Mahoney . . . . .	86
	6	Frederick O. Prince (Lawyer) . . . . .	81
	7	Sophronia H. Stevens . . . . .	86
	7	Catherine Fraser (Missionary) . . . . .	32
	8	Gridley J. F. Bryant . . . . .	82
	8	Susan Matthews . . . . .	85
	10	Keziah P. Fletcher . . . . .	86
	12	Sarah A. Kaulbach . . . . .	83
	12	Robert C. Billings . . . . .	80
	13	Catherine Welch . . . . .	99
	14	Lydia Clapp . . . . .	81
	15	Bridget McDonald . . . . .	87
	16	Mary J. Barry . . . . .	84
	17	William W. Greenough . . . . .	81
	19	Marcy Edson . . . . .	84
	19	Bridget Kelley . . . . .	80
	20	Benjamin F. Underhill . . . . .	80
	21	Henry Fobes . . . . .	77
	22	Eliza Sanborn . . . . .	86
	23	Mary J. White . . . . .	78
	23	Sarah A. Rogers . . . . .	85
	24	Margaret A. Hickey . . . . .	78
	25	Mary Reeves . . . . .	80
	25	Frederick W. Elliott (M.D.) . . . . .	44
	26	Samuel Cameron . . . . .	78
	26	Martha P. Arris . . . . .	78
	26	Joseph Maier . . . . .	78
	28	Harriet C. Sneaden . . . . .	85
	28	Margaret McKelvey . . . . .	86
	29	Margaret L. Palfrey . . . . .	77
	30	Charles M. Kingsley . . . . .	87
	30	Margaret Joy . . . . .	92
July	1	Michael Kelley . . . . .	81
	2	George H. Hosmer (Clergyman) . . . . .	60
	2	James L. Walsh (Lawyer) . . . . .	56
	3	Sarah M. Shepard . . . . .	84
	3	Lucretia J. Collins (Colored) . . . . .	81
	4	Dennis Cronin . . . . .	83
	5	John C. Richardson . . . . .	78
	5	Jeremiah Donohue . . . . .	94
	5	Joseph G. Cate . . . . .	85
	5	John H. Blake . . . . .	90
	5	Perez Drake . . . . .	89
	5	Hannah S. Parshley . . . . .	79
	5	Richard Adams . . . . .	77
	9	Ellen Sullivan . . . . .	82
	9	Mary Bulluck (Colored) . . . . .	90
	12	Enos Ricker . . . . .	79
	12	Charles Rausch . . . . .	79
	12	John J. Madden (M.D.) . . . . .	26
	13	Charles Toomey . . . . .	77
	14	Sarah G. Harrington . . . . .	83
	14	John W. Leatherbee . . . . .	74
	14	George F. Darling . . . . .	86

# REGISTRY DEPARTMENT.

11

DATE OF DEATH.

AGE.

1899.

July	14	Sarah O'Donnell . . . . .	77
	15	Sylvia L. Harding . . . . .	99
	15	Walbridge A. Field (Chief Justice) . . . . .	66
	16	Catherine Sheehan . . . . .	85
	17	Russell Sturgis, Jr. (M.D.) . . . . .	42
	17	Robert Campbell . . . . .	76
	17	Margaret Cahill . . . . .	83
	18	Mary A. Christerson . . . . .	85
	18	Cyrus N. Chamberlain (M.D.) . . . . .	70
	18	Frederick Schlotterbeck . . . . .	76
	18	Eliza L. Pierce . . . . .	88
	22	Elizabeth A. Sproule . . . . .	79
	22	Thomas Condon . . . . .	84
	22	Mary V. Beck . . . . .	77
	22	Pamelia A. N. Kinney . . . . .	77
	22	William P. Butler . . . . .	83
	22	Eliza Walton . . . . .	86
	23	Achsah H. Bean . . . . .	86
	23	Mary Hanratty (Sister Dominica of the Sacred Heart),	36
	23	Sarah R. Fellows . . . . .	79
	23	Harriett Eveleth . . . . .	82
	24	George A. Badger (M.D.) . . . . .	70
	24	Michael Crilley . . . . .	81
	25	Charlotte E. Robbs . . . . .	79
	25	John Mack . . . . .	76
	26	Elizabeth Lindsey . . . . .	94
	26	Ann O'Connor . . . . .	93
	28	Magdalene Newman . . . . .	79
	29	Peter McNaught . . . . .	90
	29	John Quinn . . . . .	80
	29	Bridget V. Norton . . . . .	85
	29	Clara Pratt (Missionary) . . . . .	45
	29	Eliza M. Spear . . . . .	82
	31	George F. Clark (Clergyman) . . . . .	82
Aug.	1	Abbie A. White . . . . .	79
	1	John Haley . . . . .	77
	1	John M. Williams . . . . .	81
	1	Louisa Averill . . . . .	77
	2	Catherine Hunter . . . . .	83
	2	Lydia M. Hough . . . . .	78
	2	Robert Morrison . . . . .	80
	2	George Stein . . . . .	88
	2	Mary E. Homer . . . . .	80
	4	Moses O'Connor . . . . .	80
	5	Minerva T. Lull . . . . .	81
	5	William D. Crockett . . . . .	79
	5	Martha Skillen . . . . .	77
	6	Catherine Comerford . . . . .	77
	6	Sarah A. Gary . . . . .	81
	6	Margaret Fitzgerald . . . . .	89
	6	Mary A. Morgan . . . . .	88
	7	Henry Bailey . . . . .	83
	7	Hannah S. C. Brigham . . . . .	79
	9	Stephen Cushing (Clergyman) . . . . .	86
	9	Bridget Lovett . . . . .	83
	10	Sarah Jenkins . . . . .	95
	10	Martha Sloan . . . . .	77
	12	Mary A. Leggett . . . . .	87
	13	Michael Mahoney . . . . .	80
	14	Sarah M. Malcombe . . . . .	79
	16	Nehemiah Smith . . . . .	80



## DATE OF DEATH.

## AGE.

1899.

Aug.	16	Eleanor Rutishauser	82
	16	Maurice H. Utley (M.D.)	71
	18	Abigail J. Davis	83
	18	Patrick McGuigan	77
	19	Solenus Pushee	79
	21	John Buckley	79
	21	Ann Driscoll	83
	22	Chloe C. Thomas	91
	22	Winsor Wright	77
	23	Annie Smith	98
	23	Lydia H. Ulmer	85
	23	Martha Wiggin	91
	23	Mary Fitzgerald	84
	23	Jane Mills	82
	24	Mary Coffey	84
	24	William Everett	78
	26	Isaac Pratt, Jr.	85
	26	John Mansfield	81
	27	William Cheyne	79
	27	Almira Barnes	77
	28	William E. Fitzgerald	77
	28	James T. Van Rensselaer (Lawyer)	56
	28	Mary J. Willson	77
	29	George D. Mushaway	77
	29	William Denvir	82
	30	Jane Janes	101
Sept.	1	Abbie Littlefield	79
	1	Silas Buck	81
	1	Samuel W. Willis	82
	1	Honorah Manning	86
	2	Elizabeth Colley	84
	2	Abigail G. Clark	77
	3	Patrick Kearns	78
	3	Catherine McGonagle	80
	4	Stephen W. Marston	79
	6	Catherine Driscoll	91
	7	Judith C. Mayo	77
	8	Hannah F. Drown	79
	8	Henry F. Picking (Rear Admiral)	59
	9	William O'Connor (Priest)	72
	9	William G. Burke (M.D.)	32
	10	Anne P. Reed	91
	10	Ida G. Berman	81
	11	Samuel Green	87
	11	Sarah W. Parkhurst	80
	12	Edward N. Perkins	79
	13	Sary Winetsky	77
	13	R. Anne Nichols	86
	13	Eliza Bible	87
	14	Vernon A. Messinger	86
	15	Mary Wiggin	84
	15	Johanna Sullivan	85
	15	John M. Hall	85
	16	Margaret Gaffey	88
	16	Duncan MacRae (M.D.)	71
	17	Christopher Becker	85
	17	Abby J. Dean	78
	17	Bridget McLaughlin	83
	18	Mary Caban	81
	18	Julia McLaughlin	85
	18	Lucy Otis	78

# REGISTRY DEPARTMENT.

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DATE OF DEATH.

AGE.

1899.

Sept.	19	William Bosson . . . . .	82
	19	Patrick Tracy . . . . .	82
	19	Belda Tupkis . . . . .	88
	20	Arthur C. Howard (M.D.) . . . . .	53
	21	William S. Gordon . . . . .	78
	21	Lorenzo Parsons . . . . .	83
	21	Harriet E. Reveillon . . . . .	80
	21	Harriet J. Whitney . . . . .	88
	22	John H. Beal . . . . .	87
	23	Joseph P. Paine (M.D.) . . . . .	70
	23	Sarah Wellman . . . . .	82
	25	Joseph E. Bartlett . . . . .	80
	26	Gilman M. Weymouth . . . . .	89
	26	Hannah Gallagher . . . . .	79
	26	Mary M. Carnes . . . . .	85
	27	Edward Loomer . . . . .	77
	27	Helen A. Malcolm . . . . .	80
	29	John H. Prescott . . . . .	77
	29	Frank J. Hastings (M.D.) . . . . .	62
Oct.	1	Eleanor Joudry . . . . .	78
	2	Mary Baldrey . . . . .	80
	2	Albert G. Stevens . . . . .	84
	2	George M. Felch . . . . .	79
	2	John Leary . . . . .	77
	4	John Donovan . . . . .	81
	4	Magdaline Pratt . . . . .	87
	4	Ellenor Galarneaux . . . . .	82
	5	Catherine McCrudden . . . . .	95
	5	Martha Martin . . . . .	77
	5	Alison T. Ronald . . . . .	83
	5	Isabella McMurray . . . . .	86
	5	Elizabeth E. Humphrey . . . . .	83
	5	John W. McBarron (Lawyer) . . . . .	29
	7	Catharine Osborne . . . . .	81
	8	Cynthia Bicknell . . . . .	85
	8	Mary Cannon . . . . .	79
	8	Lane Nelson . . . . .	80
	9	Catherine Hurley . . . . .	84
	10	Frederick Peterson . . . . .	85
	10	Charlotte M. Allen . . . . .	85
	12	John Newell . . . . .	80
	14	Mary Kelly . . . . .	77
	14	Julia O'Shea . . . . .	85
	14	Thomas Purdon . . . . .	82
	14	Theron H. Carter (M.D.) . . . . .	40
	14	Caroline Allen . . . . .	79
	15	Ellen Casey . . . . .	77
	15	Mary Mahoney . . . . .	87
	15	Abial Littlefield . . . . .	82
	16	Walter Scott . . . . .	80
	17	William C. Reeves . . . . .	78
	17	Eliza Abbott . . . . .	87
	17	Robert H. Barham . . . . .	80
	19	Matthew Killelea . . . . .	97
	19	Julia H. Hutchins . . . . .	78
	20	Frances M. Stoddard . . . . .	83
	20	Fanny C. Clarke . . . . .	82
	20	James Neal . . . . .	82
	20	Samuel C. Wilkins . . . . .	88
	21	William Kennedy . . . . .	89
	22	Mary Meaney . . . . .	90





# REGISTRY DEPARTMENT.

15

DATE OF DEATH.

1899.

AGE.

Nov.	17	Patrick J. Duran . . . . .	85
	19	Margaret Doherty . . . . .	80
	19	Jonathan D. Wheelock . . . . .	79
	20	William L. Fischer . . . . .	80
	20	Horace Wellington (Clergyman) . . . . .	84
	20	Sarah A. Ellis . . . . .	95
	22	Mary Lynn . . . . .	79
	22	Morris Baiskey . . . . .	78
	23	Felicia Cunio . . . . .	86
	25	Ezra Hawkes . . . . .	83
	25	John Oliver . . . . .	78
	26	Frances J. Fish . . . . .	79
	26	Jotham Seavey . . . . .	79
	27	Mary A. Abbott . . . . .	87
	27	Anna B. Story . . . . .	79
	28	Thomas Moser . . . . .	78
	28	Janet Chisholm . . . . .	83
Dec.	1	Joseph E. Ingalls . . . . .	79
	2	Lucy E. H. Fenno . . . . .	86
	2	Mary C. Myrick . . . . .	86
	4	James R. Dayton . . . . .	87
	4	Henry F. Snow . . . . .	78
	5	Julia Leary . . . . .	85
	5	Ann D. Williams . . . . .	92
	6	William Banks . . . . .	83
	7	Mary A. Hinckley . . . . .	83
	8	Pietro Viola . . . . .	84
	8	Andreas Hippler . . . . .	79
	8	Delia A. Thurston . . . . .	78
	8	Eugene Fitzgerald . . . . .	82
	9	Charles C. Briggs . . . . .	77
	9	William P. Brechin (M.D.) . . . . .	49
	10	William Fitzpatrick . . . . .	78
	10	Martha L. Tirrell . . . . .	77
	10	Abbie A. Davenport . . . . .	78
	11	Charlotte Cunningham . . . . .	80
	11	Gertrude Herter . . . . .	88
	12	Hugh Parker . . . . .	81
	12	Mary J. Boynton . . . . .	88
	12	Eliza W. S. Pease . . . . .	93
	12	Elizabeth D. Bacall . . . . .	79
	13	George W. Sargent . . . . .	84
	14	Mary N. Eustis . . . . .	89
	14	John Hurley . . . . .	87
	14	Thomas H. Dunham . . . . .	82
	15	Harriet C. Vittum . . . . .	81
	15	Thomas McLaughlin . . . . .	82
	16	Parney H. Foote . . . . .	77
	16	Thomas Beddoe . . . . .	83
	16	Malvina F. Farwell . . . . .	81
	17	Julius C. Ellis, Sr. . . . .	77
	17	James Cooley . . . . .	97
	17	Dennis Conway . . . . .	79
	18	Julius Adams (Lawyer) . . . . .	50
	18	Margaret Lonergan . . . . .	92
	20	Bridget Hurney . . . . .	77
	20	Mary Walkins . . . . .	80
	21	Aaron D. Williams . . . . .	78
	22	Dennis M. Sweeney . . . . .	79
	22	Augusta G. Ollman . . . . .	77
	23	Lavira Sexton . . . . .	81

## DATE OF DEATH.

1899.

## AGE.

Dec.	23	Reuben Mann	.	.	.	.	.	.	.	88
	24	Anna Evans	.	.	.	.	.	.	.	83
	24	Ann A. Dow	.	.	.	.	.	.	.	82
	25	Benjamin K. Bliss	.	.	.	.	.	.	.	80
	25	Alexander Moseley	.	.	.	.	.	.	.	77
	25	Mary Mowles	.	.	.	.	.	.	.	85
	25	Mary McLaughlin	.	.	.	.	.	.	.	78
	25	Ann E. Grover	.	.	.	.	.	.	.	78
	26	Frederick D. Stackpole (M.D.)	.	.	.	.	.	.	.	50
	26	William B. Gale (Lawyer)	.	.	.	.	.	.	.	70
	26	Ellen Miley	.	.	.	.	.	.	.	78
	27	Mary Murphy	.	.	.	.	.	.	.	82
	27	Mary R. Gore	.	.	.	.	.	.	.	92
	27	Rebecca B. Elkins	.	.	.	.	.	.	.	80
	28	Stephen Grover	.	.	.	.	.	.	.	81
	28	Thomas O'Flaherty	.	.	.	.	.	.	.	87
	29	Lydia H. Austin	.	.	.	.	.	.	.	84
	30	Joseph Hastings	.	.	.	.	.	.	.	84
	30	Susan F. Harvey	.	.	.	.	.	.	.	78
	31	Margaret Willoughby	.	.	.	.	.	.	.	77
	31	Thomas Higgins	.	.	.	.	.	.	.	93
	31	Jacob Field	.	.	.	.	.	.	.	79
	31	Ann McColgan	.	.	.	.	.	.	.	92

## APPENDIX B.

## CHAPTER 387 OF THE ACTS OF 1899.

## AN ACT RELATIVE TO THE SOLEMNIZATION OF MARRIAGES.

*Be it enacted, etc., as follows :*

SECTION 1. No justice of the peace shall solemnize a marriage in this Commonwealth unless he also holds one of the following offices: City or town clerk or assistant city or town clerk; city registrar or assistant city registrar; clerk of a court or assistant clerk of a court; or unless he shall have been especially designated by the Governor as hereinafter provided.

SECT. 2. The Governor may, at his discretion, designate justices of the peace who may solemnize marriages in the city or town in which they severally reside. The number so designated shall not exceed one to every five thousand inhabitants of the city or town; *provided, however*, that one such justice may be designated in each town. Such designation may be revoked by the Governor at any time for cause.

SECT. 3. Each justice of the peace designated as provided in section two shall receive a certificate of such designation, for which he shall pay to the secretary of the Commonwealth a fee of five dollars; and he shall not solemnize a marriage until he has received such certificate and qualified thereunder.

SECT. 4. The Secretary of the Commonwealth shall annually in January send to the several city and town clerks and city registrars a list of all justices of the peace designated under this act, with the dates of termination of such designations.

SECT. 5. This act shall take effect on the first day of July in the year eighteen hundred and ninety-nine.

[*Approved May 23, 1899.*]

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COMMONWEALTH OF MASSACHUSETTS,  
OFFICE OF THE SECRETARY, BOSTON, January 1, 1900.

*To the City Registrar of Boston :*

SIR, — In compliance with section 4 of chapter 387 of the Acts of the year 1899, I have the honor to transmit a



list of Justices of the Peace designated and commissioned with authority to solemnize marriages in their several cities and towns.

Respectfully,

WM. M. OLIN,  
*Secretary of the Commonwealth.*

APPOINTED.	NAME.	RESIDENCE.	COMMISSION EXPIRES.
July 1, 1899. ....	Nathaniel G. Robinson ....	Boston .....	January 9, 1903.
" " .....	Charles E. Silloway .....	" .....	October 15, 1903.
" " .....	John F. Wakefield .....	" .....	October 22, 1903.
" " .....	Henry W. Shepard .....	" .....	September 10, 1903.
" " .....	Charles A. Feyhl .....	" .....	February 11, 1904.
" " .....	Thomas D. Roberts .....	" .....	November 24, 1904.
" " .....	Peter A. Frederickson ....	" .....	December 17, 1903.
" " .....	Charles V. Jaeger .....	" .....	March 2, 1906.
" " .....	Luther L. Jenkins .....	" .....	October 26, 1905.
" " .....	Wolf Baron .....	" .....	December 5, 1902.
" " .....	Elmer E. Bray .....	Lynn .....	January 26, 1905.
" " .....	Ebenezer Beckford .....	" .....	May 19, 1900.
" " .....	Sanford Waters Billings ..	Sharon .....	December 5, 1902.
" " .....	Everard B. Hanson .....	Royalston .....	June 8, 1905.
" " .....	George W. Horr .....	Athol .....	April 27, 1906.
" " .....	George E. Saxon .....	New Bedford ..	February 2, 1905.
" " .....	George F. Bicknell .....	Attleboro' .....	October 8, 1903.
" " .....	William G. Lichtenfels ....	Worcester .....	November 9, 1905.
" " .....	Rufus E. Packard .....	Brockton .....	September 6, 1901.
" " .....	Julius A. M. Wittig .....	Clinton .....	September 7, 1905.
" " .....	Herman Dietzman .....	" .....	February 1, 1901.
" " .....	Frank B. Rich .....	Hyde Park .....	June 3, 1904.
" " .....	John T. Brown .....	Newburyport ..	September 12, 1902.
" " .....	Benjamin K. Lovatt .....	Fall River .....	April 18, 1902.
" " .....	James B. Sjmas .....	Haverhill .....	July 22, 1905.
" " .....	Harry E. Gifford .....	Wareham .....	April 22, 1902.
" " .....	William Odlin .....	Andover .....	June 8, 1905.
" " .....	Robert Herne .....	Rockport .....	March 2, 1905.
" " .....	Peter A. Fay .....	Lowell .....	December 14, 1900.
" " .....	George A. Davis .....	Cambridge .....	January 5, 1905.
" " .....	Harrie H. Whitney .....	" .....	April 13, 1905.
" " .....	Frank H. Lambert .....	" .....	July 16, 1903.
" " .....	Alfred A. Stocker .....	" .....	November 12, 1903.
" " .....	Julius Meyers .....	" .....	February 15, 1901.

# REGISTRY DEPARTMENT.

19

APPOINTED.	NAME.	RESIDENCE.	COMMISSION EXPIRES.
July 1, 1899.....	William A. Blossom .....	Boston .....	July 17, 1902.
" " .....	Walter H. Binns.....	" .....	March 9, 1905.
" " .....	Benjamin F. Powell .....	" .....	May 7, 1903.
" " .....	Curtis J. Wright ....	" .....	March 18, 1904.
" " .....	Edward J. Holland .....	" .....	April 1, 1904.
" " .....	Horace A. Jordan .....	" .....	January 16, 1904.
" " .....	Harry H. Newcomb .....	" .....	September 17, 1901.
" " .....	Charles E. Kettell .....	" .....	December 5, 1902.
" " .....	Thomas J. Sproul.....	" .....	May 4, 1905.
" " .....	Daniel T. Devoll.....	Acushnet .....	December 28, 1902.
" " .....	Edward C. Fowler. ....	Orange.....	June 8, 1902.
" " .....	Lowell E. Fales.....	Milford .....	November 19, 1903.
" " .....	Francis H. Nourse.....	Winchester ....	April 6, 1905.
" " .....	William M. Crawford.....	Upton .....	October 31, 1902.
" " .....	Horace M. Perkins ....	Newton .....	March 26, 1903.
" " .....	Benjamin Morris .....	Taunton .....	December 1, 1904.
" " .....	Henry E. Burckel .....	Lawrence.....	March 25, 1904.
" " .....	John F. Batchelder.....	Haverhill .....	May 31, 1901.
July 3, 1899.....	John E. Andrews.....	Boston .....	February 10, 1904.
" " .....	Hippolyte M. Prud'homme,	" .....	June 20, 1906.
" " .....	James W. Porter .....	" .....	April 8, 1903.
" " .....	John Quinn, Jr. ....	" .....	July 21, 1904.
" " .....	James Ray.....	" .....	March 28, 1906.
" " .....	Ephraim A. Hunt.....	Mansfield .....	April 19, 1905.
" " .....	Thomas W. Richmond.....	North Adams ..	September 6, 1905.
" " .....	Duncan Wood .....	Lawrence.....	October 30, 1902.
July 6, 1899.....	Eben C. Waterman .....	Hanover .....	June 13, 1906.
July 12, 1899.....	Jeremiah J. Mahoney ....	Boston .....	November 4, 1903.
" " .....	David O. Felt .....	" .....	April 12, 1905.
" " .....	Albert L. Wyman .....	Boston .....	January 31, 1901.
" " .....	George B. Billings .....	" .....	October 16, 1902.
" " .....	Henry W. Hubbard .....	" .....	October 25, 1900.
" " .....	William Barnes.....	Marlboro' .....	March 14, 1906.
" " .....	Fredrik Peterson .....	Everett.....	May 6, 1903.
" " .....	Charles H. Worcester ....	Lowell .....	August 30, 1900.
" " .....	George M. Amerige.....	Saugus.....	January 18, 1906.
" " .....	Charles E. Abbott .....	Malden .....	July 11, 1901.
" " .....	Amos A. Williams .....	Lynn .....	January 27, 1904.
July 24, 1899.....	Charles H. Brigham .....	Boston .....	March 6, 1902.
" " .....	William D. C. Curtis .....	" .....	July 11, 1906.
" " .....	Christopher D. A. Hourin,	" .....	August 3, 1905.

APPOINTED.	NAME.	RESIDENCE.	COMMISSION EXPIRES.
July 24, 1899.....	John W. Rose .....	Boston .....	January 29, 1903.
“ “ .....	Napoleon B. Furnald.....	Quincy.....	February 13, 1902.
“ “ .....	Charles R. Johnson.....	Worcester.....	July 21, 1904.
“ “ .....	Bishop G. Rogers.....	Somerville .....	June 22, 1903.
“ “ .....	Calvin Wilder Smith.....	Wellesley .....	March 6, 1902.
“ “ .....	Albert B. Tyler.....	Southwick .....	July 4, 1906.
“ “ .....	Isaac Newton Lewis.....	Walpole.....	October 6, 1904.
“ “ .....	Fred F. Dowlin.....	North Adams ..	May 26, 1904.
September 21, 1899..	James R. Powers.....	Boston .....	February 8, 1905.
“ “ ..	Adolph L. Schubert .....	“ .....	November 8, 1905.
“ “ ..	Forbes B. Dodge .....	Charlton .....	December 17, 1903.
“ “ ..	Loring W. Puffer.....	Brockton .....	December 27, 1900.
“ “ ..	Samuel Hooper .....	Lawrence....	May 5, 1904.
September 27, 1899..	Samuel D. G. Willcutt .....	Boston .....	September 26, 1906.
September 28, 1899..	Zenas H. Crocker.....	Marion.....	September 27, 1906.
October 3, 1899.....	Clarence W. Rowley.....	Boston .....	September 12, 1906.
October 21, 1899....	Edward P. Sands.....	“ .....	January 8, 1903.
“ “ ....	*William M. Stuart .....	Lawrence .....	May 2, 1906.
“ “ ....	Herbert De Fosse.....	Worcester.....	March 20, 1902.
October 25, 1899....	Freeman O. Emerson.....	Boston .....	October 18, 1906.
November 10, 1899..	John C. Hurl.....	“ .....	November 30, 1904.
“ “ ..	Alfred R. Kehew .....	“ .....	April 11, 1906.
“ “ ..	Fred W. Sleeper .....	Cambridge....	October 31, 1906.
“ “ ..	Michael Cangiano .....	Boston .....	February 15, 1905.
November 22, 1899..	A. Chalkley Collins.....	G. Barrington,	June 9, 1904.
December 2, 1899...	James H. Gafney.....	Petersham .....	March 17, 1904.
December 6, 1899...	Henry S. Harris .....	Belmont .....	December 25, 1902.
December 12, 1899..	Jerome G. Knapp .....	Lawrence.....	January 18, 1906.
December 13, 1899..	Walter A. Ladd .....	Somerville .....	December 13, 1900.
January 11, 1900....	Gustave Magnitzky.....	Boston .....	January 2, 1907.
February 8, 1900 ...	Robert Herter .....	“ .....	February 6, 1907.
February 12, 1900 ..	Nathan Block.....	“ .....	August 10, 1904.
February 20, 1900 ..	Charles A. Bartlett .....	“ .....	June 20, 1901.
February 28, 1900 ..	Albert P. Blinn.....	“ .....	April 23, 1903.
May 22, 1900 .....	Samuel H. Borofsky.....	“ .....	September 14, 1905.
March 21, 1900.....	Otto Kalmus.....	“ .....	March 20, 1907.
February 21, 1900 ..	Charles A. Shaw.....	“ .....	March 11, 1903.
July 2, 1900.....	Louis Epple .....	“ .....	.....
February 14, 1900 ..	D. Foster Farrar.....	“ .....	February 13, 1907.
July 3, 1900.....	Robert M. McLeish .....	“ .....	.....
July 10, 1900.....	Josiah Van Buren .....	“ .....	.....

\* No evidence of qualification filed.



## APPENDIX C.

NUMBER OF BIRTHS, MARRIAGES, MARRIAGE INTENTIONS, AND  
DEATHS, RECORDED FROM 1849 TO 1899.

YEAR.	Births.	Marriages.	Marriage Intentions.	Deaths.
1849 .....	5,068	* 768	2,287	5,079
1850 .....	5,279	2,542	2,557	3,667
1851 .....	5,338	2,894	2,953	3,855
1852 .....	5,308	2,734	2,877	3,736
1853 .....	5,596	2,873	3,092	4,284
1854 .....	5,688	3,170	3,329	4,441
1855 .....	5,816	2,901	3,061	4,080
1856 .....	5,922	2,615	2,914	4,253
1857 .....	5,581	2,493	2,683	3,958
1858 .....	5,597	2,234	2,318	3,840
1859 .....	5,895	2,531	2,629	3,738
1860 .....	5,765	2,531	2,618	4,390
1861 .....	5,789	2,172	2,300	3,965
1862 .....	5,258	2,141	2,256	4,120
1863 .....	5,255	2,364	2,505	4,699
1864 .....	4,992	2,801	2,960	5,111
1865 .....	5,275	2,772	2,866	4,541
1866 .....	5,543	2,873	3,019	4,379
1867 .....	5,893	2,938	3,200	4,421
1868 .....	7,102	3,253	3,578	5,519
1869 .....	7,405	3,390	3,874	5,523
1870 .....	8,092	3,527	3,991	6,098

\* The Marriage Record of 1849 began July 26. Intentions, January 1.

NUMBER OF BIRTHS, ETC. — *Concluded.*

YEAR.	Births.	Marriages.	Marriage Intentions.	Deaths.
1871 .....	8,555	3,769	4,288	5,888
1872 .....	9,270	3,858	4,424	8,090
1873 .....	9,688	3,943	4,549	7,869
1874 .....	11,717	4,090	4,690	7,812
1875 .....	11,020	3,489	3,988	8,958
1876 .....	10,773	3,009	3,391	8,203
1877 .....	10,530	2,917	3,348	7,284
1878 .....	10,185	3,068	3,450	7,677
1879 .....	10,200	3,238	3,656	7,453
1880 .....	10,654	3,673	4,182	8,612
1881 .....	10,530	4,075	4,549	9,097
1882 .....	10,986	4,237	4,756	9,015
1883 .....	11,302	4,339	4,880	9,747
1884 .....	11,479	4,197	4,699	9,622
1885 .....	11,496	4,277	4,766	9,622
1886 .....	11,990	4,502	5,130	9,265
1887 .....	12,137	4,832	5,451	10,077
1888 .....	12,613	4,958	5,745	10,200
1889 .....	12,787	5,211	5,862	10,258
1890 .....	13,145	5,296	6,029	10,178
1891 .....	13,957	5,518	6,302	10,572
1892 .....	15,154	5,728	6,516	11,241
1893 .....	14,602	5,770	6,564	11,713
1894 .....	15,401	5,472	6,251	11,531
1895 .....	15,613	5,951	6,799	11,331
1896 .....	16,484	6,318	7,043	11,650
1897 .....	16,973	6,063	6,790	11,170
1898 .....	16,680	5,908	6,535	10,903
1899 .....	16,248	6,194	6,975	11,178













★  
No 6350<sup>a</sup> = 40

1892-99







FRAGILE  
DO NOT  
PHOTOCOPY